

**BRINGING HOME AMERICANS
DETAINED IN CHINA**

HEARING
BEFORE THE
**CONGRESSIONAL-EXECUTIVE
COMMISSION ON CHINA**
ONE HUNDRED EIGHTEENTH CONGRESS
SECOND SESSION

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SEPTEMBER 18, 2024
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BRINGING HOME AMERICANS DETAINED IN CHINA

WEDNESDAY, SEPTEMBER 18, 2024

CONGRESSIONAL-EXECUTIVE
COMMISSION ON CHINA,
Washington, DC.

The hearing was held from 10:14 a.m. to 12:29 p.m., in room 106, Dirksen Senate Office Building, Washington, DC, Representative Chris Smith, Chair, Congressional-Executive Commission on China, presiding.

Also present: Senator Jeff Merkley, Co-chair, and Representatives Steel and Nunn.

OPENING STATEMENT OF HON. CHRIS SMITH, A U.S. REPRESENTATIVE FROM NEW JERSEY; CHAIR, CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

Chair SMITH. The hearing will come to order, and good morning to all of you.

We open today's hearing knowing that Pastor David Lin is back in the United States after nearly two decades unjustly detained. Pastor Lin's crime was that he worked to strengthen the Protestant Chinese house church movement. For this, he received a life sentence. We are overjoyed for the Lin family. This Commission has pressured both the previous administration as well as this one. And we're happy that the Biden administration helped facilitate his return. So much—the agony that all of you here are experiencing, not just today but every single day and night—I don't know how you do it. You know, it's got to be beyond words cruel what the Chinese Communist Party has put you and your loved ones through.

Despite the release of David Lin, we now know, and we know beyond—(off mic)—more than anywhere else in the world. Wrongfully detained U.S. nationals are serving—(off mic)—Mark Swidan, Kai Li, Nelson Wells, and Dawn Michelle Hunt know these hard facts—you know these hard facts all too well. They have all languished far too long in Chinese prisons. The Foley Foundation identifies 11 wrongfully detained Americans in China, including those subjected to exit bans. John Kamm, however, the preeminent expert on political prisoners in China, estimates that there are 200 or more American citizens coercively detained (with 30 Americans being held under exit bans, where U.S. citizens are stopped from leaving China) to settle economic disputes or to coerce their relatives to return to China to face alleged crimes.

This is absolutely unacceptable. If the Chinese government wants to improve relations with the United States, they should release Americans who are wrongfully imprisoned without condition and unilaterally end the use of exit bans, a form of de facto hostage taking that violates Article 12 of the International Covenant on Civil and Political Rights, a treaty that the PRC has signed, though it has not yet ratified. And I would note parenthetically that they went for years getting all kinds of accolades here in Washington that they had signed that covenant—(off mic)—that covenant and didn't ratify it. And it's not enforceable anyway. But it is a good statement of principles, and we wish that they would at least ratify it.

The release of American citizens should be the first thing President Biden says to Communist Party Xi Jinping whenever they talk. Their names should be mentioned so often that Xi Jinping memorizes them. Their cases should be agenda item No. 1 at every meeting the Secretary of State has with Chinese officials. And every U.S. official traveling to China—and that includes Members of Congress, Senate and House, and of course members of the administration at every level—they should be constantly raising the names of those who are being held—Americans being held in captivity.

Every channel of the U.S. Government must be focused on the release of wrongfully detained Americans. It's that simple. All Americans detained in China deserve robust diplomatic assistance to gain their transfer out of prison or at the very least, to have more frequent U.S. consular official visits, more frequent and longer visits with their families, and better access to legal representation and health care, which is almost nonexistent. Given the legal system in China, and the poor prison conditions, more Americans should be considered by the State Department to be unjustly detained. That list needs to grow based on the facts.

How many Americans currently in Chinese prisons receive a transparent trial, with a genuine legal defense, in an impartial Chinese court? In China's rule by law system, where the Party can dictate sentences of guilt or innocence—and it's so often guilt—there is none of that. It doesn't exist. (Off mic)—of the poor conditions in PRC prisons where Chinese and foreigners alike are forced to work long hours, where they are often tortured or mistreated by guards and other prisoners, where they suffer from insufficient medical care and nutrition.

Your testimony today about what you and your families have endured while jailed should be—and we will submit it as—evidence of torture to the U.N. Committee Against Torture for its upcoming review of China. We need more people speaking out. There's been far too few voices. And, of course, the U.N. has a golden opportunity, particularly the U.N. Committee on Torture, to speak out, and to do so robustly. I will ask our staff to work with you to submit your testimony to the United Nations High Commissioner for Human Rights and the U.S. Mission in Geneva.

But that's just the start, given the number of Americans detained and the Chinese Communist Party's willingness to engage in this ongoing atrocity. To that end, I will introduce, along with Tom Suozzi, a bill that will, among other things, direct the U.S.

Department of State to create a strategy for gaining the release of your family members, gain insight into the diplomatic tool the State Department is using for your family members—Executive Order 14078, Bolstering Efforts to Bring Hostages and Wrongfully Detained United States Nationals Home, seek more transparent information from the State Department about the cases of your loved ones, including gaining access to the resources Congress allocated to assist families with the financial burdens of advocacy.

I know this is a very tough and emotional day for our witnesses, but every day and every night is tough and emotional. Again, I don't know how you endure it. No amount of words or empathy from us can replace your missing loved ones. I hope you know that our purpose here today, in an absolute bipartisan way—and Senator Merkley and I work like brothers on these issues and we will work very hard. And I know here in the Senate, and of course over in the House—(off mic)—not personally done enough either, and so it's time we did more as well. Thank you so much for being here. Your loved ones are in my prayers.

[The prepared statement of Chair Smith appears in the Appendix.]

I yield to my good friend and colleague, Co-chair Senator Merkley.

STATEMENT OF HON. JEFF MERKLEY, A U.S. SENATOR FROM OREGON; CO-CHAIR, CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

Co-chair MERKLEY. Thank you so much, Chairman Smith, for convening this hearing. And much appreciation to each of you for coming.

For more than two decades, the Members of Congress and executive—(off mic)—who have been unjustly jailed by Chinese authorities for seeking to exercise basic human rights. Our Commission maintains a Political Prisoner Database that currently has 2,764 nationals of the People's Republic of China known or believed to be detained. And as the Chairman pointed out, the Foley Foundation has a list of about a dozen individuals—American individuals wrongfully detained in China. But estimates by human rights organizations go up to about 200. Two hundred Americans detained. We don't know the exact number.

What we know is this—even one American detained as a political prisoner in China is too many. If an American breaks the law in China, that individual can be prosecuted just as a Chinese national would be here in the United States. But here's the problem—many laws of the PRC are not consistent with—(off mic). And the rule of law is undermined by political considerations. Now, our U.S. Government has been developing some tools to counter this—the executive branch issued directives—by President Obama in 2015—to implement an interagency response to overseas hostage taking, including the creation of a special Presidential envoy for hostage affairs at the State Department.

In 2020, President Trump signed into law the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act. In 2022, President Biden issued an executive order to authorize sanctions against foreign government officials and others who are complicit

in hostage taking. With these tools, and under President Biden's leadership, we have seen a decrease—a 42 percent decrease—in the number of detained Americans overseas since the peak of 2002, according to the Foley Foundation. Now, there have been some high-profile returns, including some from Russia, including Paul Whelan, Evan Gershkovich, Vladimir Kara-Murza, and others. But not every American detained overseas gets a spotlight.

Today we are putting a spotlight on three individuals, Kai Li, Nelson Wells, Jr., and Dawn Hunt, who have been unjustly detained in China for eight or more years. We want to hear their story from their family members today, because in hearing your story we're then able to tell the story. We can tell the story to the administration, to the media. Most importantly, we can carry that message and work toward their release with the government of the People's Republic of China.

Our Americans in detention suffer from illness and mental anguish. We want to make sure they get proper care and counsel. But most of all, we want them united with their families. And we're joyful that David Lin has been released, that he's now reunited. I'm sure—what a celebration that is. But we want a celebration for each of your families. Reportedly, China wrongly holds more Americans than any other country. We want to know why the Chinese government refuses to allow them to come home.

Our U.S. Ambassador to China Nicholas Burns has met with the three Americans that we're focused on today. Secretary of State Antony Blinken raised their cases directly with President Xi. But despite these efforts, despite the tools we have, representations made, the Chinese government continues to turn a blind eye to the suffering and the heartbreak. So here today we'll not only hear your stories, but your stories represent the stories of so many Americans with family members detained. And they'll help inform us of the circumstances, but also help us ponder what more we can do, as Chairman Smith has suggested. We look forward to hearing from you.

[The prepared statement of Co-chair Merkley appears in the Appendix.]

Chair SMITH. Thank you, Chairman Merkley.

I'd like to introduce our distinguished witnesses—oh, Michelle Steel, one of our commissioners, I understand, has just come online. She's going to have a few opening comments.

Commissioner Steel.

**STATEMENT OF MICHELLE STEEL,
A U.S. REPRESENTATIVE FROM CALIFORNIA**

Representative STEEL. Yes. Americans detained in China. As already mentioned, there are more Americans detained by the CCP than anywhere else in the world. But this doesn't stop at Americans. The CCP and other communist governments, such as North Korea and Vietnam, are imprisoning journalists, human rights defenders, religious figures, and dissidents.

One of my constituents had been wrongfully detained in a Chinese prison for nearly two decades and just returned home this week. And David Lin is a pastor from Garden Grove who was in China helping—building a church. He can finally see his family

and meet his grandchildren he never met before for the first time in 20 years. Mr. Lin isn't the first person to be jailed for life for committing contract fraud. It is appalling that the CCP requires Christian churches to pledge loyalty to the Communist Party. I'm grateful that he's back in the United States.

I have other constituents who live in fear of their loved ones being apprehended by the CCP. One of my constituents had a loved one tracked by text messages and arrested by CCP authorities while we were in the process of helping them flee the country. According to Human Rights Watch, Vietnamese authorities have convicted at least 163 people since 2018 for exercising their right to freedom of association or freedom of expression against the Vietnam communist government.

And I have written many letters to President Biden with the names and sentences of journalists and other prisoners of conscience and urging him to take action to secure their release. As we speak, I'm advocating for the release and protection of Y Quynh Bdap with them and urging his resettlement in the U.S. or Canada. He's a Vietnamese citizen and U.N.-recognized refugee being held in Thailand on false charges by the Vietnamese communist government.

I have urged the State Department to redesignate Vietnam as a country of particular concern, due to their human rights abuse. I especially requested that Secretary Blinken prioritize addressing Nguyen Thi Minh Thuy, who has faced continued religious persecution by his government. And I'm hopeful that shining more light on the communist authorities falsely detaining innocent people will help bring justice to those already in prison and prevent future detentions.

And I'm so happy that Chairman Smith is having this meeting today and talking about the detainees—that we really have to bring them to a free country. And, you know, our job is not done yet, and we are still working. Thank you for having this meeting today.

Chair SMITH. Thank you so much, Commissioner Steel. And thank you for joining us, and for your leadership, which has been ongoing and very effective.

I'd now like to introduce our very distinguished panel of people who are fighting so hard for their loved ones, beginning with Nelson Wells, Sr. He's the father of Nelson Wells, Jr., and a native of New Orleans, Louisiana. He and his wife, Cynthia, who is here with us today as well, now live in Haughton, Louisiana. Mr. Wells is a 20-year U.S. Army veteran stationed all over the country and world, including a stint in the Middle East during the Gulf War. His wife Cynthia worked as an Army recruiter for the Department of Defense for 28 years. Both are retired and are now advocating full-time for their son's release.

Then we'll hear from Harrison Li, who is a doctoral student studying statistics, who has begrudgingly had to become a political advocate for his father, Kai Li. Never expected he would have to do this. He is originally from Long Island, New York, and currently lives in the San Francisco Bay Area. He serves on the steering committee of the Bring Our Families Home Campaign, an advocacy group of families of Americans wrongfully detained around the

world working together to try to cut through the bureaucratic obstacles to getting assistance for and information on their wrongfully detained family members. His greatest wish is for his father to be home and in good health, to see him graduate next spring, after missing his college graduation in 2018.

We'll then hear from Tim Hunt, who is the brother of Dawn Michelle Hunt, and a native of Chicago. He attended Whitney Young Magnet School and DePaul University and served as a Chicago police officer for 28 years. So thank you for that service, as well as to you, Nelson Wells, for your service in the military. But he worked everything—beat, car, plainclothes, bicycle, mounted, and forensic unit roles. Serving and protecting the public is a family business, as his mother, father, and three uncles were all Chicago police officers as well. Tim retired in 2017 and has been advocating tirelessly for his sister's release from prison.

We'll then hear from Peter Humphrey, who is a British sinologist who has spent half a century working and studying in China and lived there for 25 years as a student, teacher, journalist, philanthropist, corporate due diligence detective, and then prisoner. In 2013, Peter and his American wife, Yu Yingzeng, were wrongfully imprisoned on false charges of illegal information gathering. Their only crime was to have offended someone with connections in the Chinese Communist Party. It was all about revenge.

Since his release in 2015, Peter created a support network for the families of foreign prisoners to lobby for their welfare and for their release. Through his work he has become a specialist on justice and imprisonment in China and is undoubtedly the leading authority on foreign prisoners in China. In addition to his work with families and the wrongfully detained, he is also an external research affiliate at Harvard University's Fairbank Center for Chinese Studies, an occasional columnist and documentary advisor, and has been a guest speaker at universities and think tanks about China's judicial and penal system. I would like to thank you for that great work. After suffering so much, you are just giving back so well to try to help all the others who have been left behind.

I'd now like to yield such time as he would like to take to Mr. Wells.

**STATEMENT OF NELSON WELLS, SR., FATHER OF
DETAINED AMERICAN CITIZEN NELSON WELLS, JR.**

Mr. WELLS. Good morning, Chair Smith, Co-Chair Merkley, and esteemed Members of the Congressional-Executive Commission on China. Thank you for inviting me and our advisor, Peter Humphrey, to testify at this hearing on Americans detained in China. My name is Nelson Wells, Sr. I am a native of New Orleans, Louisiana and live in Haughton, Louisiana. I am appearing before you on behalf of my wife, Cynthia Wells, our family, and asking for your assistance in bringing home our son, Nelson Wells, Jr., who has been unjustly imprisoned in China for 10 years.

I served in the United States Army for 20 years, and Cynthia served at the Department of Defense for nearly 28 years. We have been stationed and traveled all over the United States and the world, and most often brought our two children with us. In the spring of 2014, we were awakened in the middle of the night by

a call that no parent ever wants to receive. Paraphrasing, the male caller said: I am a companion of Nelson. He's in trouble. He's been arrested in China. They're going to kill him. Naturally, I thought it was a prank, a scam. We didn't even realize Nelson, at 40 years old, was in China. When we called his wife in Japan, she learned that he had taken a trip to China. And we knew we had a problem.

Over the next weeks and months, we reached out to the United States embassy multiple times to find Nelson, or a record of his arrest. But they could not locate him. It was not until we contacted Mr. John Kamm at the Dui Hua Foundation that we were able to confirm that Nelson had indeed been arrested. For Nelson's part, he had been incarcerated all that time in China, a country where he was only visiting, where he did not read or speak the language, and where he did not know if we were looking for him or even knew that he had been arrested.

Frightened and desperate, Nelson was willing to do anything to improve his conditions, even plead partially guilty so that he could enter the prison system to be allowed phone calls home. Ultimately, we learned that Nelson had been arrested on drug charges. As he was leaving the country, he naively agreed to carry a bag of what he thought to be baked goods for a so-called friend through the security at the airport. Those baked goods were allegedly laced with illegal drugs. For that one mistake, that one betrayal, none of our lives will ever be the same.

Nelson originally received a life sentence, but that sentence was ultimately reduced in 2019 to 22 years. We are thankful to the Chinese government for that, but his sentence did not include time served. This means that Nelson will not be released until the year 2041. In the years since 2014, my wife and I have become consumed with efforts to secure Nelson's release, to ensure his safety and health while in prison. We expended almost all of our savings in those early years via trial-and-error efforts to help Nelson, without meaningful guidance from our own government.

For years, we wrote letters to our Members of Congress, to the White House, to State Department officials, to Democrats and Republicans, to anyone who was in a position of influence. But our calls for assistance went unanswered, until recently. American Citizen Services in Beijing was helpful, but some case officers were better than others, and they change frequently. One of Nelson's former best case officers is working with your committee now, and his current case officer is outstanding as well. But no matter how good or how well meaning, with each swap it feels like we—like Nelson—is starting all over.

This inconsistency takes a toll on him, as have the years of incarceration. Over the years, Nelson has suffered from debilitating chronic pain, seizures, malnutrition, internal issues, dental pain, severe depression, and thoughts of self-harm. We also know that, based on family history, Nelson needs regular cancer and heart health screening. He also needs regular contact with a mental health professional, regular calls, ideally video calls, with us, and the ability to speak English with another person on a regular basis.

We're thankful to those who have helped us, but we often feel that meaningful change is blocked at every turn. For example, Nelson is not considered a political prisoner or held unjustly. We've

been told that humanitarian release is not a possibility. And although Nelson has also sought to utilize the 2018 law in China that allows for prisoners to be transferred to an American facility without a bilateral treaty with the home country, the United States still requires a treaty. And so Nelson remains in Chongqing prison.

Whatever the path, we are asking, pleading with this Commission, with Congress, with the administration, and with the Chinese government to work together on behalf of our son to create a pathway for outright release or prisoner transfer to a home prison. I hope you will read my longer testimony and attachments so that you understand our full story. I look forward to answering your questions during and after the hearing. Learn more about Nelson, my son, whom I love, and follow our story at www.nelsonwellsjr.com. Thank you.

[The prepared statement of Nelson Wells, Sr. appears in the Appendix.]

Chair SMITH. Thank you so much, Mr. Wells.

Mr. Li.

**STATEMENT OF HARRISON LI,
SON OF DETAINED AMERICAN CITIZEN KAI LI**

Mr. LI. Thank you, Representative Smith and Senator Merkley, for convening this important hearing. It's been a long time coming. All of us here have suffered far too many years. And it is about time—it's past time for more attention on our loved ones' plight, to bring them home.

Today marks 2,932 days—that's more than 8 years—since my dad, Kai Li, was arrested in Shanghai, China. He spent 2 months under "residential surveillance at a designated location," during which he was held at a secret location, interrogated day and night with no access to legal counsel. Then almost a year passed before he was subjected to a closed-door trial, and another year went by before he was sentenced to 10 years in prison for stealing so-called state secrets—even though these alleged secrets can be freely found and searched on the internet, even in China.

More than 3 years ago now, the United Nations Working Group on Arbitrary Detention issued a landmark decision calling for the release of my dad on the basis that his detention was, in fact, arbitrary. And yet, despite all of this, in more than 8 years we have seen no visible positive movement on my dad's case. Since 2022, I am fortunate to have gotten to know a really large number of families of American hostages and wrongful detainees around the world through the Bring Our Families Home Campaign.

In that time, we've seen the campaign shrink dramatically from 18 families now down to just 6. And that's because of Americans who have come home from Afghanistan in September 2022, from Venezuela and Iran in October 2022, Russia in December 2022, Niger and Rwanda in March 2023, then Iran again in September 2023, Venezuela again in December 2023, Russia again last month, and finally, of course, just this past Sunday we were thrilled to see that David Lin was finally released and reunited with his family after 18 years in China.

In fact, I got that news just as I was on the train coming down here to D.C. And each time we get this news, it's a really complex

mix of emotions because, of course, you know, we're just so thrilled for these families. We know, of course, what it's like to have a loved one unjustly missing for so long, and to know that the family is finally being made whole again, and that they're on the road to recovery. You just can't help but feel your heart swell with pride and happiness. But at the same time, it raises the question for us, What about my dad? When will it be his turn?

One thing that has become clear to us, in light of all these recent developments, is that when the various parts of our government—from the State Department to the National Security Council all the way up to the President himself—when they put their heads together to come up with creative solutions, American hostages and wrongful detainees in fact do come home. Frankly, it's incredibly impressive seeing how last month's Russia prisoner swap materialized, just the sheer level of effort and coordination it took really shows that these cases can be solved. And now seeing an American finally come home from China last week in a major diplomatic breakthrough, to us there's really no reason now why my dad—who has now spent more time behind bars than Paul Whelan, Alsu Kurmasheva, and Evan Gershkovich combined, cannot come home too.

Unfortunately, time is not on our side. No matter who wins November's Presidential election, we will have a change of administration. And we know from experience, unfortunately, that that means months or even years where absolutely no progress on these cases will be made. And that's because communication channels will need to be reestablished, reworked, and carefully worked out. The good will that the Chinese government has built up by releasing Pastor Lin will fade. And so the next few months before President Biden leaves office is a critical window for getting my dad home, and getting home all of the Americans wrongfully detained in China.

Personally, I've now spent a third of my life missing my dad. Every day, I wake up and shudder at the thought of him crammed in that tiny cell with anywhere from 7 to 11 other people, no climate control, unable to sleep in the summer due to the heat, experiencing the mental and physical anguish that Peter here, unfortunately, can tell you about firsthand, having spent 2 years in the very same prison and the same brigade where my dad is now being held. In his time in captivity, my dad has suffered a stroke, he's lost a tooth, he's endured draconian COVID-19 lockdowns that had him essentially locked in a cell 24/7, for over 3 years. And so I ask President Biden, how much longer does he need to suffer? Thank you.

[The prepared statement of Harrison Li appears in the Appendix.]

Chair SMITH. Mr. Li, thank you, too, so very much. And for pointing out that there is a window of opportunity right now. There needs to be a surge. I do hope that whoever wins the Presidency will move quickly on this issue as well to bring Americans home; but you're right, the chaos, the beginning of a new administration can frustrate those efforts. The idea that there needs to be a surge right now is well taken. Thank you for that.

Mr. Hunt.

**STATEMENT OF TIM HUNT, BROTHER OF
DETAINED AMERICAN CITIZEN DAWN MICHELLE HUNT**

Mr. HUNT. Thank you. Chairman Smith, Senator Merkley, and members of the Commission, thank you for inviting me today to tell you the story of my sister, Dawn Michelle Hunt. Dawn is incarcerated in Guangdong Women's Prison. She was arrested in 2014 and charged with smuggling, a charge she vehemently denies.

Since her incarceration, I've written hundreds of letters to officials, lawyers, and anyone else who would listen. Over the years, things have changed. My sister and my family are getting worn down. Dawn's health has been failing, and our father's health is failing as well.

It all started when my sister was tricked into believing she had won a contest. She received an email stating that she had won an all-expenses-paid trip to Hong Kong. She didn't believe it at first, but checked on the company and believed they were legitimate.

She was in Hong Kong for 9 days and she told me that the organizers treated her well. She went sightseeing, shopping, and started to trust the organizers who put together her trip. After exploring Hong Kong, she was asked if she wanted to visit mainland China. After her positive experience in Hong Kong, she agreed. She went to mainland China and traveled around for another 9 days.

The organizers then asked if she wanted to visit Australia. Once again, she agreed. Before she left for her Australia trip, she was told that she also won some designer purses. Trusting the organizers, she took the purses and packed them in luggage given to her by the organizers. It was at the airport, waiting to board her Australia flight, that she was called by airport security. They escorted her to a room and her luggage was in the room as well. She was asked if the luggage belonged to her, to which she responded "yes." She stated that she was asked multiple times, and each time she stated "yes," not knowing drugs were in the lining of the purses.

I hope you can see that something like this could happen to a lot of people. As a matter of fact, in May of this year, the Secret Service issued a warning for law enforcement to educate the public on similar schemes. Such a warning didn't exist in 2014.

After her trial she was found guilty and received the "death penalty with 2-year reprieve." She was duped. She was scammed! She trusted the wrong people! She doesn't deserve this! My sister is trusting and believes that people are good. This ordeal has hurt her and has taken years from her life.

While in prison she has developed physical ailments (uterine fibroids and possibly ovarian cancer) according to the doctors who examined her in prison. She has received numerous blood transfusions due to heavy bleeding and has been advised that she needs a hysterectomy, which she has refused out of distrust. How can she trust the same people who have incarcerated her after she cooperated with the Chinese authorities?

When I visited her recently in prison, I could see the depth of her depression. She has lost weight, her eyes are bulging. She has an abdominal bulge on her right side, and her complexion is very pale. She told me that she still has to work in the prison despite her illness but that she can't lift heavy objects because her fibroids

might rupture and she would start bleeding. After my visit to her, I updated my father on her condition. I had to leave out some details of her physical appearance because my dad is 91 and has recently been diagnosed with cancer. I wanted to avoid giving him an additional shock.

I'd like to share a bit about my father. He's an Army veteran and a retired Chicago Police Sergeant of 32 years. Policing is a family business; I followed in my dad's footsteps and served on the Chicago PD for 28 years until my recent retirement.

Dawn Michelle is my dad's only daughter and he is devastated by her predicament. In a strange way, my dad is locked up as well. He is worried that with all this, he's not going to live long enough to see his daughter free and safe. He's getting worn down, just like my sister. We've gotten our hopes up over the years, only to be disappointed again and again. This hearing today offers us some new hope that Dawn will not be forgotten. I've come to learn that Chinese law allows for transfer of prisoners out of China and it doesn't require a bilateral prisoner extradition treaty. It is our hope that this mechanism can be used by the State Department to get Dawn Michelle out of a Chinese prison, get her the medical care she desperately needs, and get her back home to her family.

And I'd also like to add that my sister sent me a handwritten letter. And in this handwritten letter, she refused the surgery. And she said, and I'm going to quote this to bring some of her own words to this hearing: "I, Dawn Michelle, refuse to take the surgery and will hold China liable for all the consequences from August 11, 2021, in regard to my tumor and safety of my life."

I say this because China knows, in addition to the U.S. Embassy, that Dawn Hunt is innocent and has been since June 2016. There is written documentation of the status in the courts and computers of Guangdong No. 1 Detention Center. She also goes on to say, and I'm going to quote this—she says, "The American government has sided with China and knows of my innocent status from Judge Zhang Hui Ting in May 2016, but did nothing for their own citizen and did not prevent me from coming to the Chinese prison but left me out to dry."

Gentlemen, this isn't political for me and my family. I'm just asking you, as a brother, just bring my sister home. Do whatever it takes; just bring her home. Thank you.

[The prepared statement of Tim Hunt appears in the Appendix.]

Chair SMITH. Thank you, Mr. Hunt.

Mr. Humphrey.

STATEMENT OF PETER HUMPHREY, JOURNALIST, DUE DILIGENCE SPECIALIST, SINOLOGIST, AND FORMER PRISONER OF CHINA

Mr. HUMPHREY. Good morning to you all. I have submitted detailed written testimony and will keep my oral remarks brief.

I've spent almost 50 years involved with China in various roles. And two of those years were in Xi Jinping's prisons—also my American wife, Yingzeng Yu, both of us falsely accused of illegal information gathering for my due diligence company. And I have described this experience in great detail in the FT magazine in a long article a few years ago, and in the written testimony that I've submitted to you at this hearing.

After my release, in between battles with cancer, PTSD, and a former client who got us into trouble, I decided to work to help other families suffering from similar ordeals. I have about 25 cases around the world in different countries, and I'm mentoring and supporting such families with a loved one locked up in China. I've accumulated many case studies and carried out a great amount of related research.

The most important lesson from all of it is that not a single American prisoner held in China has had a fair and transparent trial, and prisoners there from any other country as well, for that matter. China's judicial system is a political system of oppression. It is not a system of justice. All of its organs—the police, the prosecution, the judiciary, the prisons and the Chinese lawyers—form a single organic whole, all controlled by the Communist Party. No judge is independent or impartial. He is just a messenger of the Party.

The system is exploited by connected individuals to harm their perceived opponents and rivals. Cases are built upon forced confessions, often televised, and upon forced witness statements. Inside China's prisons, the prisoners, including Americans, are subjected to horrendous daily living conditions. In addition, there is forced labor for the prison's commercial profit. There is the withholding of proper medical treatment, even for cancer. And there is the writing of mandatory thought reports, in other words brainwashing, to mention just a few things.

And speaking of labor, these are Christmas cards that were packaged for a Western supermarket chain called Tesco by foreign prisoners in Shanghai's Qingpu Prison, including American prisoners.

The U.S. Government withholds the total number of Americans held in Xi Jinping's jails. Based on my inquiries and research over the years, I estimate up to around 300 Americans may be in some form of incarceration in China or under exit bans, mostly just because they are Americans. It is possible that not all of them are registered with American consulates.

Now, just remember, none of them have had a fair and transparent trial. Some are in dire health. Some are over 50, aging rapidly. Some of them have been in Xi's jails for over 10 years and are there for life. I don't think any of them deserve to be there. It doesn't matter what they're accused of. It doesn't even matter whether they are guilty or not, when they have never had a fair and transparent trial in an independent court with an impartial judge. And in Xi's China, they never will.

Today, we see some new examples of American prisoners coming into the public view—Nelson Wells, Dawn Michelle Hunt, and David McMahon. They are horrific cases. They are the tip of an iceberg. And let me say something about David's case. David McMahon is the most egregious case, the most toxic case, the most disgusting example of China's injustice. He is one of my mentees. I shared a cell with him for 1 month in Shanghai in 2014, while he was trying to appeal. I interviewed him for a whole month. I call it an interview because throughout my life I have been a professional interviewer. I've conducted thousands of interviews as a journalist, and then as a corporate investigator. And I know that David is innocent.

This American primary school teacher was falsely accused and framed of molesting a 6-year-old child, a girl, in the Shanghai French School. How toxic can you get? I hope you will read the written testimony that I have submitted on David's behalf in his absence today, plus the testimony from investigator Cedric Witek and ex-prisoner Marius Balo. And I hope that you will read the protest letter that David McMahon wrote this year personally, on his 43rd birthday, in the 11th year of a 12-year sentence on a false conviction—an American robbed of his prime by the Xi Jinping system. Or I can read it for you, if you want me to. I have it here. I can read a snatch, yes? Let me get through this, Congressman, and then if you think I've got time I'll read a snatch or two from it, okay?

Today, only three Americans held in China have been on the list of the U.S. Special Envoy for Hostage Affairs. One has just been released, to our joy, probably because of this imminent hearing on the calendar, which China was very well aware of. The timing seems to be not a coincidence at all. But I believe that all Americans held in China qualify to be on that list, first of all, because there is no independent judicial system and none of them have had a fair and transparent trial. And that is the key criterion for qualifying them to be on that list based on the Levinson Act.

It's good that we have this act, but I believe the U.S. Government should treat all American prisoners in China equally. I believe the U.S. Government must abandon its policy of nonintervention in these judicial cases in China and should intervene in them all. It has a duty of care to protect its citizens against abusive dictatorships and their so-called judicial systems. It can lead the world in this pushback like no other country can. I imagine that these families wonder which candidate in the upcoming election will bring their loved one home.

In the final points and recommendations of my written testimony I've called for legislation that would increase the onus on the U.S. Government to take real action for its citizens imprisoned in China. As Alex Karp, the founder of software firm Palantir, said a few days ago: If you touch an American, we're going to make you and your friends' life hell. And that's the way it should be. Americans are suffering in Mr. Xi's dungeons. The United States must hold China to account. Just imagine a new kind of Magnitsky Act to target this problem.

So thank you very much. Those are my remarks. If you would like me to read from David McMahon's letter, I'll do that.

“My name is David McMahan. And I’ve been imprisoned for the past 11 years for a crime that never happened. Maybe you’ve heard of me. I’ve sent letters to Ambassador Burns and to Roger Carstens, but neither has responded to me. I’m hoping you will. [“you” is referring to the Consul General Scott Walker in Shanghai.]

“I get released, as far as I know, in 1 year. [Actually, it’s next May.] I think it’s probably too late for anyone in the State Department to try to help me get released. I’m not asking for that anymore. What I’m asking now is this: Why didn’t you help me when you had the chance? I’ve read the entire Levinson Act. My case qualifies. I’ve read, copied from the SPEHA website, what they consider to determine wrongful detention. But when my case was rejected [by SPEHA] they refused to tell me why. I don’t think you, anyone at the State Department, anyone at the FBI, any French law enforcement agency, or any of the Chinese investigators can justify what’s been done to me. I’m not going to try my case in this letter, but I will simply state I am completely innocent.

“There are approximately 13 U.S. citizens in this prison. [By the way, one of them is Kai Li. They’re in the same place.] The State Department currently is only helping to recognize the release of one. [He means Kai]. One out of thirteen. From a country where all men are created equal, you only help one person?

“I remember when Brittney Griner’s story was in the news. I don’t believe for a moment that she was a drug trafficker, but let’s be clear, she brought a small amount of illegal drugs into Russia. Her arrest was not in any way arbitrary. She was not arrested because of her race, sexuality, nationality, religion. She was arrested because she had drugs on her. And while the sentence handed to her was absurd, make no mistake about it—she was kind of guilty. Now I look at the Levinson Act, and I look at the SPEHA website, and I ask myself: How the hell does her case qualify for help?

“I’m wrongfully imprisoned. I’m not telling you how to feel, but if I worked for the State Department, I’d be ashamed. Innocent Americans left to suffer while celebrities are home in time for Christmas. I used to think America was better than that—but I digress. If you know why my case was rejected for help, or if you can find out, I feel that I deserve to know. The SPEHA’s secret process of deciding who to help and who to abandon totally lacks transparency. The decision not to help me not only hurt me very deeply, but my entire family. We deserve an explanation.”—David McMahan, Qingpu Prison.

[The prepared statement of Peter Humphrey appears in the Appendix.]

Chair SMITH. Peter, thank you.

We have a short video from Kathrine Swidan, the mother of Mark Swidan. She could not be here, but she asked that we play it right now.

**STATEMENT OF KATHERINE SWIDAN,
MOTHER OF DETAINED AMERICAN CITIZEN MARK SWIDAN**

Ms. SWIDAN. My name is Katherine Swidan. I'm the mother of Mark Swidan. He's been wrongfully detained in China, Jiangmen, China, for 3,641 days, nearly 10 years. In a few days, it'll be a 10-year anniversary.

The way I would describe Mark is, he's a good man, he's funny, he's very smart, he's also gracious. Loves his mama. While I was on the phone with him at his hotel, I heard a lot of commotion. And he said, Hold on, Mom. And Chinese police got into his apartment. They said, we need to take you in for questioning. And the phone hung up. We figured, Okay, he's going to be questioned, they'll find out the truth. There's nothing there. And they'll let him go. Didn't happen.

I just can't fathom what Mark is going through. I know he's suffering. I received about 300 pieces of artwork, countless letters. He said, "I'm in a lot of pain, physically and mentally. I'm in a dark place." He's made out on this picture to be his own superhero, that nobody's going to help him so he has to do it himself. It took 8 years before anyone paid attention to me. I feel like I'm one little woman against all China.

When Mark comes home—I say when, not if—but when Mark comes home I have to be greeting him coming off of that plane. And he said, Mama, I will come home in a box of ashes or walking off the plane, but I will come home.

[Video presentation ends.]

Chair SMITH. Katherine, thank you for producing and submitting to this Commission that very moving video about your son. I know you're watching and know that, like our very distinguished people here who are advocating for their loved ones, we will work on that case as well, as a Commission, and do everything we can. And Peter, thank you for the way you have taken the cruelty you suffered, and your wife, and now have turned it into advocacy, and with the precision of a journalist asking all the right questions and doing everything you can to assist and to get us, in government, to do our part. Because again, there are some well-meaning people, but we don't do enough. And I think we have to triple our efforts.

This hearing, to me, is a pivot point for us to take that next series of steps. And again, Mr. Li, your thoughts that this is a time for the Biden administration to really triple its efforts before it leaves—I agree with that. If that does not happen, know that we will try, with whomever wins the White House, to make this a very high priority. These are Americans. These are your loved ones. And we can't sit by and say, Well, there's only a few that are on the list. I mean, that is absolutely—you know, I love the statement that you gave from David McMahon, "who to help and who to abandon." I mean, that says it all. All have to be helped! All have to be helped! And, you know, I read The New York Times piece, Tim, by Mara Hvistendahl, who, parenthetically, has testified before my committee in the past. She is an absolute truth teller. And she writes for The New York Times. And it was a very moving piece that she did. She did quote that your father, I believe it is, had said that he believes that she [Dawn Michelle Hunt] has been raped by the guards and of all things, a family of police officers

who have protected innocent people your whole life, you know your father, you, your relatives—to have that kind of indignity, that cruelty imposed upon her. That, again, motivates all of us, I think, to triple our efforts as well. And we will, I guarantee it.

I know, and Mr. Wells, you are concerned about this as well—that African Americans have been mistreated, perhaps even more so, because of racism. I remember reading extensively about how African students in China were mistreated so very often. So, you know, there they are studying in China and not being well treated. So there is a significant racist issue with an undertow of hatred toward Africans and African Americans that has to be taken into consideration. All people are equal and need to be protected. We need to be aware of that. And that needs to come into the equation as well.

You know, the whole idea of not having a treaty or a way of transferring a trickle of people that are on the list—that is unacceptable. As you said, Peter Humphrey, all these trials are sham trials. All these processes that are undergone—if you're accused, you're guilty, that's it. And it's just how long you're going to serve, and on trumped-up charges to boot. So there is no judicial independence. The judges are all part of the Chinese Communist Party apparatus. And we need to realize that and not put our head in the sand like ostriches, you know, and say, Well, we can't deal with that.

Trumped-up charges—it's the worst game in the book. If I go to China tomorrow, they could trump up—I'm barred right now from going because of my advocacy. But, frankly, if I go, I am always aware that something can be put into my suitcase—because they come in and they check your suitcases anyway. They rifle through them when you're in a hotel. You know, it might be harder to do that to somebody that's an elected official, but not beyond. Your families are totally at risk.

So—window of opportunity. We need to surge. But the surge has to go right into the next administration. This has to become the priority. These Americans have been left behind, and Xi Jinping has proven beyond any reasonable doubt that in the annals of history he will go down as one of the worst dictators. But that doesn't mean everybody around him has to be complicit in that. You know, there are people who hopefully will say, wait a minute. Time out. The maltreatment needs to stop. You know, it brings dishonor to the Chinese Communist Party to treat people in this horrendous way, and not honor. Yes, they're feared. Big deal. But it brings dishonor and loss of face to so mistreat people and trump up charges.

And I get your point about David Lin. You know, what about your families? You were so happy for him to be released, joyous. But I understand the sense of disappointment that you feel anew. Hope rises, but—and, again, this idea of celebrities always getting the additional focus, whatever they are. You know, I'm glad that reporters and basketball players—very glad that they get out. But you're all celebrities, especially in the eyes of God. We're all equal in the eyes of God. And, you know, all people are equal and need to be treated so. So I would ask that all of us focus on that, too.

The media doesn't cover the hardworking American man or woman, or like your sister, Tim, who got tricked. How easy it is for

them to trick your sister, as they did. So I would just ask if you'd want to respond to that—the idea that there should be no differentiation between a celebrity and somebody who's a good, honest, hardworking person like yourselves. And, again, not only the U.S., but the world, has to stop its complicity by its indifference. And I know—and maybe you could speak to how the State Department has handled your cases.

I know, because I just chaired a hearing on child parental abduction—I wrote a law on it 10 years ago—and they feel that they get short shrift from the U.S. Department of State. There are great people at the Department of State. But very often the individual cases get crowded out by big geopolitical concerns, and to me it should be the other way around, because the canary in the coal mine is how well or poorly they're treating that individual, that vulnerable person. And I think we need to make the biggest statement and push for your families. They're Americans. They need to be rescued.

So if any of you would like to speak about how well or poorly you think the State Department—and without any fear of retaliation. You know, we're all here to work for you. And that goes for the U.S. Department of State. It goes for the President. Goes for Members of Congress, House and Senate. So, I mean, you pay our salaries, you elect us. We have an obligation, a duty, to respond as aggressively and as effectively as we can. And again, Tim, reading that New York Times piece, just, again, the mistreatment, and Mr. Wells as well, because they're African American, that's a further abomination in this process. So if any of you would like to speak to that.

Mr. Hunt.

Mr. HUNT. Yes. Thank you, Senator. The State Department, American Citizen Services, they have been helpful in some ways. When my father went to visit my sister, he actually missed his flight home. And when I went to pick him up, he wasn't on the flight, and I thought he was detained as well. And I did a quick phone call, and the person at ACS, she located him, told me, made me feel comfortable. And said, hey, he missed this flight. He should be—he's on this flight. He should be on his way home. However, as Mr. Wells stated, these officers change quite frequently. So it's—I'm not trying to downplay it—it's almost as if when you call someone or when you write an email, it would be the same as if you have a problem, you call customer service, and they say, Oh yes, well, I'm going to transfer you to another department, and then you have to explain it all over again.

And unfortunately—I won't make light of it—that's sort of how it is. And if it's that way with us, imagine how it is trying to get information from the prison about our loved ones, if the officers who are taking care of our loved ones continue to change. They don't know our loved one's story. They don't know if they need medical attention. They don't know if they're—what they're going through, because they're new. And try as they might, they have to get caught up with each individual case. And, just to bring up quickly, it took me between six and eight months to visit my sister because the Chinese prison didn't submit the paperwork to give to ACS, so I could have permission to see her. However, ACS was

helpful in facilitating my visit. But it took that long for me to have that visit arranged.

Chair SMITH. Mr. Li.

Mr. LI. Yes. Thank you, Chair Smith, for asking the question. I will say—yes, I echo Tim's statements about ACS. You know, they, for the most part, try their best to help. They have been able to push for monthly consular visits for my dad. But of course, at the same time, it has varied. We've seen so many officers come and go very quickly. So, you know, it's hard to maintain that long connection.

I also wanted to speak to another aspect, which Peter touched on, reading from David's letter, about designation of cases by the State Department. Now, of course, my father is fortunate to be one of the cases that has been designated, but obviously that's not the case for the others on the stage. And I fully agree that there's no transparency in that process. You know, for the first 4 years my dad also was not designated by SPEHA. We asked for it and we just got the response—no. You know, it's not going to happen.

I've worked with a lot of other families who are trying to go through this process in other countries. And it's really—it's really the same. You know, the Levinson Act is great, but there's no timeline for a response. There's no transparency. And it really does seem like families are owed that at a minimum. They should be provided the opportunity to be told, if no, then why not? And what additional information is needed? But to my understanding, that's never been offered to any of the families. It's unfortunate that it's creating this kind of division. You know, it really should not be the case. And I think this process of designation needs to be reviewed thoroughly for that reason.

Mr. WELLS. Thank you, Chairman Smith. I would like to say that what Tim and Harrison said, I agree 100 percent on some of the things. And I share their same pain. But one of the things that appalled me the worst is when we called the embassy—and they couldn't find my child. It took an outside source to find him. And then after they did find him, we didn't know how to navigate through this at all, period. So we wondered, how could they—you all—support us in trying to get Nelson home? My response to what they said was an angry one. And I have spoken with an outburst many times on Zoom calls. I guess they probably feel they don't want to deal with Mr. Wells.

And the reason is because I think the policies should be improved. I think they should have more power to be able to visit, to be able to get the medical records that we are demanding for the prisoners. When we asked them if there was any way they could advise us on legal representation, they said, No, this is not something we can do. So if you're a family with no political background or power, you're out there all alone. And I believe that the embassy, being that they are supposed to support American citizens, should be more accountable for helping us in getting the support we need. If it hadn't been for Cynthia, as strong as she is, and staying up all night, and corresponding with Mr. Humphrey, Mr. Kamm, we would probably have never found Nelson. And to me, I think we need to do a better job. Thank you.

Chair SMITH. Recently, I put together a meeting with families—left-behind parents through parental child abduction. Like I said, I wrote a law on that. And we had Rena Bitter, who's the Assistant Secretary for Consular Affairs, sit in on that meeting, as well as other administration people. And the beauty of it was she sat across from people who had very serious criticisms that needed to be taken into account and then rectified. And she walked away after a 2-hour meeting—it was just recently we did this—saying, we need to change this, we need to work on that.

I would love if you can come back, whenever you can. We can put it together as quickly as you can come. She's a very responsive person. She runs it all. There's always a problem with crossing into the political side with the assistant secretaries who manage—human rights becomes a sub-issue. And that's been on every human rights issue, from religious freedom to you-name-it. But, again, these are American human rights that are being violated with impunity. But I would invite you, if we could put together that meeting—we'll do it. And if you can come and share this with her and her staff, I think that will lead to serious reform. Because she has been responding extremely well on the parental abduction issue. And she's done that before with some of the issues that we've brought to her attention.

So I would invite you. We'll put it together, a week, 2 weeks, whatever works for you and her. Roundtable, no press, just talk and get it right. Because I think that feedback, they don't get it necessarily. It does not percolate up to the top.

Mr. Humphrey.

Mr. HUMPHREY. I'll just pick up on the comments the other three witnesses made about service on the ground, as it were—ACS, etc. I mean, everything Mr. Li said I can certainly confirm, because I've been involved in many cases, not just some of these here. Their experiences are very, very, similar to my wife's as well, because my wife was in prison at the same time—an American citizen. And one of the questions that people often ask me about our experience is, How well did your government perform? How much did they help you? And I always answer this in a two-tiered way.

I say, well, you know, there's the nanny and messenger service, first of all. And that's the service provided by consular officers who visit people in the prisons. And they're allowed to bring messages and letters and sometimes reading material, and so forth, and to carry messages from you back to your family. I call that the nanny and the messenger service. And I say, well, that service is provided very well by the U.K. consulate, in my case, and by the U.S. consulate in my wife's case. But there's this other level of service—which I think is necessary, and that is at the higher political level—which is completely lacking.

So it comes down to, when people visit us, you ask them for this or that, you ask them to do this or that. And they say, I'm sorry, we can't—we can't intervene in your case. That was the phrase I heard many times during consular visits. And my wife also heard this phrase many times. And that's wrong. You know, where there is no real justice—you can't treat China as a country under the rule of law in the way we understand the rule of law to be for our own citizens. You have to intervene.

And finally, in connection with the same issue, after my release and when I started investigating my own case, and what had happened to me and all the things I didn't know when I was behind those walls, I tracked down a former ACS officer—in other words a State Department officer—who had been coincidentally both the visitor to my wife and the visitor to David McMahon at the same time in the Shanghai detention center. That's the pretrial detention center. I tracked him down and I interviewed him twice for a couple of hours as part of my investigation, and he told me how he would come away from visits to David McMahon feeling very, very troubled because—and then he said, there's a film I want you to watch. It's called "The Hunt." "The Hunt" is a Danish film about a schoolteacher who is falsely accused of molesting a young boy, and the whole thing balloons into a witch hunt and this poor man is almost harassed into suicide. And so he was basically telling me that he did not believe David was guilty. He visits him—visited him many times in his capacity and he was coming away from this thinking, This man is innocent—but I'm not allowed to say that.

And when his superiors found out that I'd been talking to him about this—he was silenced. I find this very unacceptable and I think it's an illustration of this problem of "we cannot intervene." We must. We absolutely must intervene in these cases.

Chair SMITH. Senator Merkley.

Co-chair MERKLEY. Thank you, Mr. Chairman.

Mr. Wells, in your testimony you note that American Citizen Services in Beijing was very helpful in arranging visits or helpful in visiting, calling, communicating, reporting back. Were any of those visits by you or your family or were those visits they were conducting and then reporting back to you?

Mr. WELLS. Mr. Merkley, all those visits were from ACS. We never had any visits at all, period. All information that we get is from them and every communication—we may have phone calls that we will engage or some Zoom calls that we set up—basically they will give us a personal comment as we speak. But it's always been emails and done by them.

Co-chair MERKLEY. And I assume you've all sought to visit but always been turned down?

Mr. WELLS. Yes.

Co-chair MERKLEY. And Mr. Li, have you been able to visit your father?

Mr. LI. Senator Merkley, I have never visited my father in prison. I believe—you know, he spent 3 years in a pretrial detention center where no outside visits were allowed. Now that he's in the prison I believe he is allowed visits from family but I've personally chosen not to visit my father as much as I would like to due to the inherent risk to myself and my family for doing so.

Co-chair MERKLEY. This is something I'm going to follow up on in terms of trying to understand what the norms are and the protections are for Americans to be able to visit their family members.

And Mr. Hunt, you noted that your sister had a series of things and I think that was your observation. You were able to visit her?

Mr. HUNT. Yes, Senator. In June of this year I went to visit my sister. If you'd like to know I can tell you how it was. ACS did arrange that visit. However, there was a letter that ACS was sup-

posed to tender to me and that letter was the letter that allowed me to visit my sister. It was basically the permission slip to visit her and they didn't give it to me until the day of my visit. There was nothing that I had before that except the communication from ACS but not the communication from the Chinese government—that had their seal and their stamp that allowed me to visit.

So I still visited her without that letter, and I just want to highlight the point that I didn't access my emails once I was in China so the permission slip that ACS gave me—I should have gotten that earlier so I had it. I just went there with an ACS communication from our government, not a permission slip from their government. So that was one risk that I inherited.

In visiting her, just so you know, there are armed guards—military-type guards that are outside of the prison that escort you with long guns, weapons, everything. They took my passport. They held my passport, so I understand why Mr. Li would not want to visit because there's no guarantee you're going to get your passport back. After this hearing I don't believe it would be advisable for me to go and visit my sister again.

Co-chair MERKLEY. And you mentioned ATS. ATS stands for—
Mr. HUNT. ACS. American Citizen Services.

Co-chair MERKLEY. Oh, American—oh, ACS. Okay. Just to clarify.

And that is a group that's formally liaised with our State Department?

Mr. HUNT. Yes, it's part of the State Department.

Co-chair MERKLEY. Part of the State Department. Okay.

I look forward to learning more about that because I know visits can be pretty meaningful to those of our families that are detained, but the risks, the uncertainty about what else might happen, one injustice implies another injustice may occur.

Several of you mentioned a law—a Chinese law—and you expand on it in detail, Mr. Humphrey—a 2018 PRC law on international judicial assistance and criminal matters, and you say that—if I understand the testimony right—this law allows for the opportunity for foreign prisoners to be transferred to a facility near their home which I assume is back, in this case, in the United States.

But then you note, “To the best of my knowledge the U.S. Government has never explored this mechanism on behalf of any individual.” Are there other governments that have been able to utilize this? Has Canada been able to utilize this? Have European countries utilized—

Mr. HUMPHREY. I know of two successful cases by France bringing citizens home that way. The other cases are not so prominent countries, not so obvious democracies, such as Turkey, for example. But France has been very diligent in helping its citizens get out of these situations in China.

Co-chair MERKLEY. So at least one Western nation has been able to utilize this—

Mr. HUMPHREY. Yes.

Co-chair MERKLEY. And I think that in your testimony you note that a response from our government as to why they have not explored this mechanism is that we do not have a transfer treaty with China—and you note that a transfer treaty is not required.

Mr. HUMPHREY. Yes. I mean, between governments it is possible to establish what's called a PTA, which is a prisoner transfer agreement. That is a treaty and it provides a framework for prisoner transfers. I know a lot have been done with some of the Middle Eastern countries but America doesn't have one. Some European countries do and they have used the treaty mechanism to manage transfers.

But the point about the law, Senator—the Chinese law—is that it provides a nontreaty pathway to do something similar on a case by case, individually negotiated basis, and the onus is on the foreign government to open the discussion by saying, We would like to speak to you about such and such a person, and this should be directed toward the Chinese ministry of justice and the Chinese ministry of foreign affairs.

And there is no requirement on China's part that a PTA must exist bilaterally with that particular country in order to use this law. The American government, however, has taken the position that we can't do it without a treaty with China because somehow our law doesn't allow it. But I have actually not seen any law which disallows this.

Co-chair MERKLEY. Are you aware of whether our State Department has pursued the possibility of such a treaty?

Mr. HUMPHREY. The possibility of what, sir?

Co-chair MERKLEY. Such a treaty, a treaty on—

Mr. HUMPHREY. I don't think so. I'm not aware that they have.

Co-chair MERKLEY. Well, certainly, this is something that we can follow up on as well, both the treaty strategy and the use of the 2018 law in the fashion that France has used it.

Just as we've noted in all your testimony, China is not a rule-of-law nation and so I'm well aware that no matter what they have in their law, when it comes to their strategy—and we see their strategy of transnational repression all the time—of what they're doing to their own citizens as well as detaining our citizens, my heart really does go out to each of you on your family members detained under these various premises. I think about my own children and if my own child had been told they won a contest, and then developed a relationship over time, going to Hong Kong and then to China and then invited to go to Australia and then told that they won some purses—they get to take those, too—how easy and seductive that scam is. Or to carry baked goods laced with drugs or to have something invented to detain somebody. Or to send a message to everyone else, in the case of your father, Mr. Li.

And our relationship with China, I think, has really taken a terrible turn under President Xi. My impression is that these circumstances became much more difficult and common following Xi coming to power. I'm not sure if that's accurate but, Mr. Humphrey, could you comment on that?

Mr. HUMPHREY. I think that's accurate to say. As an overview of this whole thing over the last 10 or 12 years—we've seen the situation growing steadily worse in China's prisons and in particular for foreign prisoners whom he is trying to drag down to the same treatment as Chinese prisoners, whereas 12 years ago foreign prisoners were treated much better.

Senator, there was another point in connection with your original question to me and that is that there's a very able American lawyer based in Beijing. His name is James Zimmerman, known as Jim Zimmerman, and we have a memo from him on the subject of this Chinese law where he sets out the case along the lines I just described to you, and we would be happy to share that memo with you.

Co-chair MERKLEY. Great. That would be—

Mr. HUMPHREY. And I can also assure you that John Kamm holds a similar view as well on this topic.

Co-chair MERKLEY. Great. And, Mr. Wells, you mentioned in the beginning it was very hard to find anyone in the U.S. Government to help. As you see others go through this—is the place that you direct them to now, this American Citizen Services branch of the State Department, is this the key group to help facilitate contact with the Chinese government in regard to detained individuals?

Mr. WELLS. Yes. I think that's something that they definitely need to improve on, and one of the things that was brought to my attention—Mr. John Kamm, he's a great advocate—there was always a list whenever an American was detained overseas that would come on his radar and the shocking thing was when we spoke to him he said, I'm surprised that Nelson didn't come on our radar.

So when we contacted the embassy he was able to find them before the embassy was and I was confused because it took his information—for him to give it to us and for us to give it to them and that was when they were able to find him.

Co-chair MERKLEY. Right. No, that does raise real questions about why—what network existed that our government didn't succeed in accessing when you were in need.

You've given us—you've shared your stories which, as I mentioned in my initial statement, by you speaking to us you're really speaking to our Nation, and this process publicizes not just your individual cases but the overall challenge that we face with citizens being detained in China. And so you've given us some ideas of how we might pursue improvements. So thank you very much for taking the time and effort to be here. I hope that there is a celebration in each of your futures. You're not only helping your own family members, you're helping many other families as well.

Thank you.

Chair SMITH. Thank you, Senator.

Just to conclude, have any of you had any contact with our Ambassador, Nicholas Burns? Has he been in contact with you?

Mr. LI. Yes. I will comment that in our case Ambassador Burns has been in touch with our family. He has, fortunately, visited my father three times in prison. We're grateful for the work that he's doing for my father and I know he's also visited Mark Swidan. But ultimately, he's not going to be able to bring them home; we need a more coordinated, larger government effort.

Chair SMITH. Okay. Mr. Wells.

Mr. WELLS. For our family we've had no contact at all, and to my knowledge I'm not sure he's even aware of my son.

Chair SMITH. Well, he will be after today. So thank you for that.

Mr. WELLS. Thank you.

Chair SMITH. Mr. Hunt.

Mr. HUNT. No. My family has had no contact with him.

Chair SMITH. Again, if you're not on the right list you don't have contact and that's contemptible. As Peter Humphrey pointed out, this is not a rule-of-law country. So we will do our level best to engage him.

You know, interestingly enough, Daniel Kritenbrink, who is the assistant secretary for Near East and Pacific Affairs—he's on this Commission. So it would be very helpful, with you as the family members, to have that kind of meeting with a member of the Commission who is also a point person for the administration with regard to policy.

And I would also add that Uzra Zeya is also—she's the undersecretary. She's been at some of our hearings and I know her staff is following this today. We'll put together a meeting to just convey all of this and your points.

I have to say this. I understand how frustrating it is when they change case officers and somebody is reading a chart somewhere, maybe, about your case. One time I was so frustrated with this transfer of the case to someone else who has no idea what your case is all about. That's if they even open up a case for you.

It reminded me of a—I'm a big "Seinfeld" fan and there was one famous episode where George Costanza had the Penske file and he kept holding the file saying, I've got it—and nothing was happening with it. It was just information that was going nowhere, nothing actionable. So, you know, by being here today my hope is it'll help make your cases actionable.

Mr. Li, I know that yours already is but, Mr. Wells and Mr. Hunt, yours are not, at least the way they should be. So we'll work on that and we'll try to get Daniel and others to come and meet, as well as the head of Consular Affairs.

I have found that Consular Affairs is very often empathetic but it stops there, as you pointed out, Peter, when it gets to the political side. And this is something that causes consternation at the political level so, therefore, we drop it and don't do all that we can do. Your point is well taken.

Michelle Steel, by the way, is still with us. Commissioner Steel, do you have a question or any comment you want to make?

Representative STEEL. Yes.

Chair SMITH. Oh, good.

Representative STEEL. I just have questions because I've been engaging with the State Department. I have another constituent that's been detained in China. So we try to work with them and we tried to ask the State Department how they negotiated the release of Pastor Lin this time.

So to all the witnesses, how can we improve policy tools and resources to deter foreign governments from engaging in the wrongful detention of U.S. nationals and citizens of other countries such as China, Vietnam, North Korea, and others? Are there policy options? Could Congress consider disincentivizing foreign governments for engaging in the wrongful detention of U.S. nationals? Anybody can answer this if you have any idea.

Mr. HUMPHREY. It sounds to me really like a question for Senators and Congressmen to address. I don't think any of us really are qualified to make such suggestions at a really high level.

Representative STEEL. So you don't have—

Mr. HUMPHREY. What deterrence we could introduce to deter that awful government in Beijing from arresting so many Americans—it's hardball, you know.

Representative STEEL. Yes it is. It is.

Mr. HUMPHREY. You have to play hardball back. What else can I say? I mean, obviously, I'm not suggesting that you go around arresting lots of Chinese citizens who are innocent in America, but you are the leaders and you have to fight back for your citizens.

Representative STEEL. Thank you, Mr. Humphrey. The thing is that, while we've been working with the State Department, a lot of times we get very frustrated and, you know, open up the conversation. That's the State Department issue that was the one I asked.

What's going to be so helpful—what role do other leaders and those global platforms have in raising awareness on this issue, especially corporate America or people with major platforms? Should they criticize abuses and raise awareness? I'm saying this because I actually sent a letter out before the Beijing Olympics. We had 17 corporate sponsors for the Olympics. They spent billions of dollars, and I asked them can you use a little bit of that platform to find out—to let the whole world know what China is doing, how China is abusing the system, and they're the one detaining our—and not just our, citizens but at the same time the human rights violations that they've been practicing. It's just awful that, you know, we hear those stories.

So do you think it is good that these corporations—by the way, after we sent a letter out to those 17 Olympic sponsor corporations, none of them answered. So do you think that they should use major platforms and then, you know what? We have to let the whole world know what China is doing.

Mr. HUMPHREY. I think that this problem, the types of prisoners who we've been discussing today—and we're not talking about Chinese political prisoners or religious prisoners in general but the type of prisoners we're talking about today are people who are accused of common crimes—I would call them common crimes, whether it's theft or fraud or rape or whatever, whether they're guilty or not, and this is a systemic problem that so many people are getting prosecuted and convicted on totally murky bases, with no fairness, no transparency, no proper defense.

So it is systemic. It's the Chinese system and one thing you can do is talk more to other governments of similar mind and spirit about this to try to exert more international influence, put more pressure on China to behave. I don't see that happening very much when it comes to the prisoners who are accused of common crimes. I think they're very often forgotten about. But you can do that, I think. You only need to get four or five or six governments together on the same page on the same platform.

I will point out that later this month the Australian Senate is holding a hearing similar to this one. They have an inquiry ongoing

and they will report in November. I will be speaking at this Senate hearing there.

And I think that's another example of how you can connect. In the U.K. we've had a lower key thing last year which I participated in and I'm working at the moment to try and get something like this convened in the EU parliament as well. So I would suggest that one way of strengthening your muscle internationally is to combine with other countries to provide a united front against China to behave.

Representative STEEL. Thank you so much. Thank you, Mr. Chairman. I yield back.

Chair SMITH. Thank you so much.

Commissioner Nunn.

Representative NUNN. Well, thank you, Chairman, very much for bringing us all together here to talk about just a—historically challenged Beijing.

As we look at bringing Americans home—I think you have highlighted specifically the intent of the Communist Party within China to use Americans as a pawn in a larger political game, so let me be clear from the git-go, Mr. Chairman, that any nation that holds Americans hostage to exert their political will against the United States is, first and foremost, responsible for those Americans' safety and their safe return to the United States, and second, that the full weight of the American people is looking on those countries to be responsible actors in making sure those hostages are brought home.

We expect our citizens to be treated well and we expect them to be released. As an Air Force officer for more than two decades serving on our Nation's front line, I know that no mission is complete until every American makes their way back to U.S. soil.

It is completely unacceptable, even though China is our number-one trading partner, that there are more Americans detained in China than anywhere else on Earth. Due to the lies and deceptions of the Chinese Communist Party we are unsure exactly how many Americans are even being held today on the mainland in China.

But what we do know is that our fellow Americans, including this incredible panel before us today, are on the front line of exposing how many Americans are being held in captivity including Kai Li, Nelson Wells, Jr., and Dawn Michelle Hunt.

Each faces unknown health concerns, potential threats of torture, mistreatment at the hands of the CCP, and I want to begin by thanking each of you for taking time to come here today to share your stories and be the face for so many stories that remain unspoken at this time.

The threats from the CCP range. We know that its false imprisonment for trumped-up charges of espionage simply for preaching Christianity in China—to family members who were detained and used as political pawns against the United States. These Americans have unjustly and unfairly found their freedom stolen by the Chinese Communist Party.

It's our duty today to bring attention to these very important cases and work hard to ensure that we bring all of our brothers and sisters back home. So thank you each and, Mr. Humphrey, I'd

like to begin with you. You are a China expert. You're a former CCP detainee yourself.

In June of this year four citizens from my state, teachers from Iowa teaching at Cornell, were viciously attacked in rural China simply for being Westerners. But, certainly, it appears that the attack may have been propagated by an anti-West feeling stoked by local officials.

According to ABC News these four instructors from Cornell were brutally attacked simply by bumping into a 55-year-old Chinese national. There seemed to be an overall hostility toward Westerners throughout the region. So I want to begin. Does the CCP look for opportunities to target, attack, and arrest ordinary citizens while operating in China?

Mr. HUMPHREY. What we can say, I think, is that the CCP under Xi Jinping's leadership—in other words, him—has fostered an atmosphere of xenophobia in China during his reign and we've seen it expressed initially in policies toward the outside world and we've seen it expressed in constraints and harassment of foreigners in China.

But there's an element in the Chinese population which takes these kind of signals as signals to get rough with people and—there was a prisoner—American prisoner—held in the same cell as Nelson Wells some years ago. He's out now. He's a footballer and his name's Wendell Brown, from Detroit, and he was certainly a victim of that type of arrest where he was working, coaching in China, and he started to get bullied in a bar because he was with a Chinese woman and some local people started a fight with him and he got arrested and jailed for brawling.

I think he was held for a few years—two and a half years, something like that—and a skillful Chinese lawyer got him out in the end with a reduced sentence. That's an example of the atmosphere that you're talking about, Commissioner Nunn.

Xi Jinping has engendered an atmosphere of hatred of the outside world in China today. Not everyone buys it but the kind of people who beat up, you know, your four guys from Iowa—they were victims of precisely this atmosphere which he has created.

He came to power saying, you know, we need to clean up all this foreign trash we've got in China. That was precisely the time when we saw this wave of people getting arrested and imprisoned in the category of Dawn Hunt, Nelson Wells, and Mark Swidan. They were all taken in that period as that atmosphere was being whipped up by the new Xi Jinping regime.

I hope that answers your question.

Representative NUNN. Mr. Humphrey, thank you very much. And let me first say as somebody who has worked as a counter-intelligence officer in Guangzhou, a large swath of Chinese people truly believe in a greater humanity and it's a salute to those who are trying to push back against this type of brutality coming out of it.

Mr. HUMPHREY. Yes.

Representative NUNN. But this is clearly a dictate coming from the CCP trying to identify leverage, in my opinion, against the United States. And their tactic now has become this incarceration

of U.S. citizens to use as leverage. And this goes for Hamas or anyone else.

Mr. HUMPHREY. I agree with you entirely.

Representative NUNN. Let me ask this. When the CCP arrests and detains American citizens, what do you believe is the ultimate goal when they take these individuals, as you know, for brawling—for years in a Chinese detention facility?

Mr. HUMPHREY. I mean, I think in a way they see it, like, as a warehouse, and they're building up inventory in that warehouse to trade off when they need to. In fact, one of my—one of my detention center guards, a senior one, once said to me, we're just a warehouse. We move people in and at some point in time we move people out. So that metaphor is very applicable, I think. They're building stock to trade on.

Representative NUNN. That is frightening and I think absolutely, something we would say in the military, building a stock of blood chits that they get to cash in—that happen to be U.S. citizens that they're housing. In your words, and I think it's correct, warehousing American citizens for a time that they want to gain leverage over the United States.

Mr. HUMPHREY. Yes.

Representative NUNN. Can I just briefly—what are the tactics they're using—you noted instigating a brawl to be able to identify—are these intended targets? Are they looking across the board? Is it happenstance? How do they go after what you call these common crimes to be able to draw a noose around an American?

Mr. HUMPHREY. I do think it's partly happenstance and opportunism when an opportunity arises and it involves those kinds of people—those kinds of Chinese people, those elements. They take the opportunity. I mean, I know many cases where foreigners including Americans have been subjected to this treatment over the last 10, 12, 15 years. It's been quite common.

Representative NUNN. Mr. Humphrey, you brought up a very good point here. This is not unique to just the United States. They are targeting other nations as well. Could you share with us who else is being targeted in these wholesale roundups of foreigners?

Mr. HUMPHREY. I think the Japanese are a particularly favorite target because even though there's not such a large number of Japanese in prison in China, they're harassed a lot because there's a lot of hatred toward the Japanese nation in China.

But we see it also with Australia. Australia has a substantial number of prisoners in China, and we see it in general toward the *laowai*, the *dabizi*, or the foreigners around in China. There are less of them now because in recent years they've been leaving in an exodus, you know. There are far fewer foreigners in China now because of this atmosphere which has been created.

Representative NUNN. I'd like to talk to the families, particularly those who have loved ones currently in detention there. It's an open question, but, Mr. Li, I'll start with you. Your father was arrested on unspecified so-called espionage charges. How are Americans treated when they go through these Chinese courts? You had a front row seat to it. Is it transparent? Is there an appeal process? Does the accused get any kind of defense?

Mr. LI. Thank you for the question, Mr. Nunn.

Yes. Look, it's certainly not a transparent process. I think that goes without saying. Like I said, my father did not have access to legal representation in the first six months when he was being interrogated. The trial was behind closed doors.

Members from the consulate tried to attend but were not able to get in and, you know, it's because allegedly the trial is about "state secrets"—so that's a convenient way for them to bar access to the trial.

So it's certainly not a transparent process. It's a long process. You know, for my father it was two years from initial detention to sentencing. For a lot of others it's been, unfortunately, much, much longer.

In terms of an appeal process, such a process exists. My father did appeal his sentence. Ultimately, it got denied. I am not aware of a single case in which an appeal has been successful.

Representative NUNN. Mr. Wells, first of all, thank you for your military service and long-rendered sacrifice for our country. You are now fighting another battle, to bring your son home. When he was detained by the Chinese, can you speak about or are you aware of the type of environment he was placed in once in the Chinese detention facility, how he was treated, and what updates you have on his well-being?

Mr. WELLS. Thank you, Mr. Nunn.

As I stated before, it took us a while to find Nelson. He was in a detention center quite a long time and while he was there he wasn't able to reach out to us. So when we did find out where he was and we contacted numerous lawyers and that didn't work out well, but there was one lawyer that picked up the case and he said, I will try to assist Nelson.

But by the time he got there Nelson had already gone to trial and, as Harrison said, it was closed. He didn't have anybody to speak for him so it had to be through interpretation. But it was already stamped that Nelson was going to be guilty regardless.

But one of the things that the lawyer did tell us, he said, while I was there I was able to do two things. The first thing is that I listened to what the case was about, and he said that it was inconclusive. He said, As far as I'm concerned Nelson should be free.

The second thing that he was able to do is to tell Nelson that your parents are aware that you are in this situation and that they are doing everything they can so that you will not feel like you are all alone and by yourself.

Those were the only two things that he was able to do. But when Nelson finally talked to us—and you've got to remember that all his phone calls are monitored. They are censored. So when he had the opportunity to talk to us he started telling us the duress that he was under, how he was being treated, how the guards were handling him and doing things that—to me, it's inhumane.

So he was crying out, Pops, get me out of here! Get me out of here! I can't take it! So I told him—as we started discussing—they hung up the phone. He was able to give us another call—six months later. He asked us were we making any progress, and he was still in this detention. So he said, I've got to get out of here,

so I set up an appeal and the appeal should help me get out. Is there any legal assistance that you could help me with?

And I told him that we were—it's hard to tell your child that your hands are tied. So I told him I was not capable but I will do everything I could. So that's when he decided—under coercion and having been through what he was going through—he decided to do a plea. And at that point, that's when they accepted his appeal, and then they agreed to put him in a regular prison system to get him out of detention.

And then he was able to give us code on telling us how he was being treated. He would reminisce about a movie or anything of that nature and say, Pops, remember this movie? It went like this, and that's how we understood what he was going through.

Nelson has been attacked because in the situation that he's in—he's the only American and only black American in the prison where he's at. So he has no communication with anyone to speak English. Everything he does has to be within himself, internal. All the guards are Chinese, all the inmates are Chinese, and so he has been attacked just for who he is, being American—a black American. He has been put in the hospital several times as well as the fact he's been attacked by guards, which was just recently.

So the situation that he's going through when he communicates this to us, we tell ACS and we ask them to do more frequent visits because from Beijing to where Nelson is I understand it's quite a distance so they will only go see him every 3 months.

Well, we were requesting that they would go see him at least once a month because of the fact he's out there on his own. And the correspondence that we get to him when we send it through—like Mr. Humphrey said, it's a nanny service. When we give him—our family members write letters to him and books that we try to send to him, and it is being screened by the guards and they won't allow him to have it. So that means it'll be at the prison but he can't receive it because of the fact they feel it's not appropriate. So it takes away from his communication with his family and loved ones.

So to answer your question, while he was in the detention center he tried to explain that he was sleeping on the floor and, as Mr. Li said, because of the weather he said, Send me some clothes so I can weather the winter because the windows are open. There's no way to close the windows.

So his plea to us has always put an emotional strain on us as well, because we know our child is suffering. And that detention center, for those that go there and stay there for long periods of time, that's a stressful situation.

Representative NUNN. Mr. Wells, you are doing so much for your son even just by being here today to raise awareness to the American people. As a father I compliment you. As a warrior I thank you, and for your son Nelson not only do our hearts go out, there must be action taken on our side to hold the Chinese accountable and you have our commitment for that. I'm grateful for you being here.

Mr. Hunt, thank you for your service, first and foremost, as a Chicago police officer. You are one of these great heroes from the heartland. You have been on the front line here in the United

States protecting our country and, certainly, there is a need for public safety. But it is different when a foreign country seeks out Americans to use as political tools.

Your sister Dawn, a woman detained inside China—speak to us about what the Chinese have put her through while in the detention facility and what information you’ve been able to get out because we hear reports here of health concerns, of potential threats of torture, of mistreatment at the hands of guards, particularly of women. I can’t imagine how difficult this is for you.

Mr. HUNT. Thank you, Mr. Nunn.

Yes. My sister conveyed to my father that she was sexually assaulted in the detention facility. I understand what Mr. Wells was saying because his story is the same story that I have. Denial of access to reading materials. Only being able to have anything in Chinese and she doesn’t understand it. The cold, laying on the floor, wanting—requesting blankets. The food. Everything—Mr. Wells, everything that you’ve—every story that you’ve heard is correct.

Our citizens are being mistreated, abused, and it’s coordinated. It’s not something that is a “one off.” It’s not, Oh, it happens to this prisoner—it doesn’t happen to others. It happens to every prisoner.

I understand that we are convened here today so we can give you information. I hope you take this information to heart and I say this because during the visit with my sister there was a person who was standing right next to her with the headphone and listening to everything we said, taking notes.

I asked my sister about the sexual assault. She briefly looked up, looked down, and there was a tension there I could see in her eyes, I could feel, and she said no. But I knew she was under duress. I knew that her freedom to tell me the truth had been taken away.

Now imagine, not only is your freedom of movement taken but your freedom to tell the truth, your freedom to speak up, your freedom to cry out, your freedom to ask for help is taken as well. That’s what I need this panel to understand. That’s what all of our family members are going through right here, right now.

Representative NUNN. Mr. Hunt, that is powerful. It is real.

Mr. Chairman, I am so grateful for you doing this fact-finding hearing that is bicameral, that is bipartisan, that has the White House’s ear, and it is clear that not only does more need to be done but we have to recognize the strategic threat here as well as the tactical human suffering that’s going on.

We’ve heard, Mr. Humphrey, that this is a coordinated effort by the Chinese Communist Party to build a warehouse of U.S. citizens in detention facilities that these families and so many, many more are going through right now—that there is intentional coercion of American citizens while in Chinese detention facilities to either plead guilty so they can speak to their family and have at least some hope of an appeal—or remain in solitary confinement year after year and, as you’ve each highlighted. In any country in the world we would consider this to be barbaric.

But in a country that presents itself as an equal to the United States—to strip another citizen of not only their freedom but their humanity—this must be called into question, they must be held accountable, and we need to recognize that China not only is playing

the long game here but they continue to build an arsenal of Americans to be held in detention at a time and place of their choosing to be able to negotiate against the United States. We should never allow this to happen.

I thank the panel for being here. Our hearts are with each of your families. We will maintain the fight. Thank you, Mr. Chair.

Chair SMITH. Thank you very much, Mr. Nunn, and I would ask you—I'll give the last word to each of our witnesses.

But before that, as you probably know there are four levels of travel advisory. The first is “exercise normal precaution,” No. 2 is “exercise increased caution,” No. 3, the State Department calls it “reconsider travel,” and No. 4 is “don't travel.” Right now the PRC is “reconsider travel” because of the arbitrary enforcement of laws and people being incarcerated simply because they happen to be Americans.

In your view should the State Department now go to “don't travel” since we have a situation where your family members traveled and have now been unjustly detained and harassed and imprisoned? It seems to me that would get the attention of the Chinese Communist Party as well. Because it's an open risk. People are traveling there not even knowing that there is a travel advisory, that it's number 3 on the 4 scale. But perhaps it's time for No. 4 to be imposed.

Peter, do you want to respond to that?

Mr. HUMPHREY. I'll be very quick. There's one phrase I've been using for quite some years now and it's starting to dawn, and that is “nobody is safe in China.” Nobody.

Chair SMITH. Thank you.

Mr. HUNT. Don't travel to China. That needs the security level. Whatever you do it needs to be raised to the highest it could be raised to. Don't travel.

Chair SMITH. So that's your word to the administration?

Mr. HUNT. That is my word right here right now. Don't travel. None of us here want to have another story.

Chair SMITH. Thank you.

Mr. LI. I will say this. It's been reported in the media that the Chinese government has requested the United States to reduce its travel advisory from level three down to level two or level one and, you know, I think it is laughable that that they are even willing to consider that, while they keep our loved ones arbitrarily detained.

And so I think that the Chinese government clearly wants more Americans to travel to China. But as long as our loved ones are being held, as long as there are so many people at risk, then that travel warning must be escalated.

Chair SMITH. Thank you.

Mr. Wells.

Mr. WELLS. If this would put pressure on the Chinese regime I say don't travel. No one should even go there.

Chair SMITH. I appreciate that. You know, I now give you the last word. I do by unanimous consent ask that the statements of Bill Browder be included; Ben Rogers, who we've worked with—both of those men—for years; Cedric Witek, Cynthia Sun, Jason

Poblete, Katherine Swidan, who was on earlier with her son, and the Foley Foundation. Without objection, so ordered.

But I'd like to give the four of you the last word, if you would, and I can't thank you enough. This, to me, is a pivotal hearing. You know, motivation is everything but information that motivates—you have motivated us to do even more and we will. I guarantee it.

Mr. Wells.

Mr. WELLS. Thank you, Mr. Chair.

I am grateful that we and all of these people who are in the same situation as us are here today in front of you all to raise awareness of our situation as well as the other Americans that are there.

My last comment is that there were always three, and Mr. Li knows that these were on the radar of our administration and we tried to get Nelson's name included, and today you all have done that for us, as I know Tim agrees.

But there's one thing that you will notice—the picture that all of you put out there. If you notice, everybody else is in civilian clothes—but my son is in his prison uniform. And I was apprehensive and afraid but I knew I needed to do this because everything that we do is going to help get him home.

But that uniform prison picture that's out there—Nelson has received death threats. He has received harassment and been attacked because of that picture; they tried to force him to say how that picture got to us, and because we could not tell how it was done, Nelson has suffered at their hands.

So I am proud and happy to be here. This picture has now shown the American people about my son but I'm also afraid of what might happen to him from this. So I know you all are going to be diligently trying to help us but there's one other thing that I wish, that you all can at least get the American citizens, consulars, to make more frequent visits to Nelson, to make sure they don't harm my child because if the illness doesn't take him out, I'm afraid they will. Thank you.

Mr. LI. I would just like to end with this statement, you know, building off what Mr. Nunn just mentioned of China wanting to present itself as a country that is equal to the United States, yet at the same time engaging in these horrific practices, ripping apart our families, ripping apart our loved ones, torturing them physically, mentally, it needs to stop, and whatever other bilateral issues that need to be worked out irrespective of that, these cases have a tangible solution.

The Chinese government has our loved ones. They can do the right thing and release them, and it's incumbent on our elected leaders to call for that, to make that the number-one priority in their diplomacy because it is something tangible, something doable, something with a clear-cut solution. So it should be one of the easiest things to get in diplomatic discussions. I think by bringing awareness to this issue that it is easy to get swept under the rug because we are individual families, ordinary Americans who have a difficult time getting attention.

We need to be heard. We need to be made a priority. And so I thank you, of course, Chairman Smith, Senator Merkley, but also all the commissioners on the CECC for convening and organizing

this hearing and this forum to listen to our voices and take to heart and understand just what we have been going through and why it needs to be rectified immediately. Thank you.

Mr. HUNT. First of all, I'd like to—I thank you, Mr. Chairman and Mr. Humphrey and everyone who's here on this panel. Thank you for allowing us to speak. I will state this just to repeat what you said about how to keep up the pressure.

You asked whether we should raise the threat level. Of course. The other Senator asked, Is there something we could do socially by holding these companies responsible and yes, of course. I say this because my sister was making lithium batteries. That was her job, her duty, while she's incarcerated.

I'm not sure what products these lithium batteries go to but I'm sure that some of these are imported here in America. I'm sure the citizens here need to understand and they need to know that the Chinese motto was "rehabilitation through labor" and a lot of this labor, as Mr. Humphrey says, goes into making greeting cards that we purchase.

There needs to be a sort of transparency on what products are being made by prison labor and if that—if those things are transparent then that puts pressure on them as well as what you said, raising the threat level because, from what Mr. Humphrey said, if there's going to be a warehouse of Americans that they're going to use to gain political favor or use to do something to, I guess you could say, move the needle on their side by releasing a citizen from America—that needs to stop—and we need to put all types of pressure on them through political, economic, judicial means.

Whatever we can do to bring everyone home, we need to do it. No one should be in this situation and this panel should not grow. There should be fewer of us, not more of us. Thank you.

Mr. HUMPHREY. I prefer to leave most of these final words to these three very courageous families that you've got here today.

But I'll just say one thing very, very briefly, and that is that I think it is incumbent upon Congress to legislate to deal with this problem of the prisoners in the categories that we've discussed today.

You mentioned you received a statement from Bill Browder, who we could say was the creator of the Magnitsky Act concept—you know, a great campaigner who brought that about here. It was aimed heavily at the time against other countries, especially Russia, for human rights abuses and wrongful arrests and mistreatment of prisoners and so forth and we need something like that here to confront this problem with China.

So I think it is incumbent upon Congress here to push some legislation forward which will be punitive in nature and also will be holding the U.S. Government to greater account to actually act and punish China for these kinds of wrongful detentions and arrests.

I hope to see that in the next year or two. I realize that you're going to go through some changes over the coming year which may slow some progress down. But this is a bipartisan issue and I don't really think it matters who's running the administration. I think it is incumbent upon every Congressman and every Senator to get behind something like this. Thank you.

Chair SMITH. Thank you. We do have a duty to act and we must, so thank you. Who do we help and who do we abandon? To paraphrase again, we help all and abandon no one and I can't thank you enough for the powerful testimony and for the love that you have shown for your loved ones. It's incredible.

The hearing is adjourned.

[Whereupon, at 12:29 p.m., the hearing was concluded.]

A P P E N D I X

PREPARED STATEMENTS

PREPARED STATEMENT OF NELSON WELLS, SR.

Good morning, Chair Smith, Co-chair Merkley, and the esteemed members of the Congressional-Executive Commission on China. Thank you for inviting me and our advisor, Peter Humphrey, to testify at this hearing on Americans detained in China.

BACKGROUND

My name is Nelson Wells, Sr. and I am appearing before you on behalf of my wife, Cynthia Wells, and our family, asking for your assistance in bringing home our son, Nelson Wells, Jr., who has been unjustly imprisoned in China for 10 years. We are natives of New Orleans, Louisiana, but relocated to Haughton, Louisiana in the aftermath of Hurricane Katrina. We lost many of our worldly possessions to that storm, but nothing prepared us for the loss we would experience in 2014.

In the spring of that year, we were awakened in the middle of the night by a call that no parent ever wants to receive. Paraphrasing, the male caller said, "I'm a companion of Nelson's. He's in trouble. He's been arrested in China. Do you have money? Hurry up! They're going to kill him!" Naturally, I said, "Hang that phone up." I thought it was a prank, a scam. We didn't even realize Nelson, then a 40-year-old man, was in China. We thought he was at home in Japan, where we had recently spoken to him by phone, and he had been living with his wife and children—two daughters and a son—from two different marriages.

I served in the United States Army for more than 20 years, and Cynthia served at the Department of Defense for nearly 28 years. We have been stationed and traveled all over the United States—from the South to the South Pacific—and the world. At each opportunity, we brought our children, Nelson and his sister, Kendria Wells, with us. Thus Nelson always had a love for travel, and it was not unusual to us that he settled in Japan, where his wife is from. But due to a medical condition he suffered from a traffic accident, we were discussing the possibility of the family relocating to the United States permanently, so that he could get better treatment and expand his professional opportunities. Unfortunately, it was not to be.

When we called his wife, our daughter-in-law, we learned that he had taken a trip to China. He is a dedicated husband and father, and we are a close family, so after he did not return immediately and we did not hear from him, we knew we had a problem.

Over the next several weeks and months, we reached out to the United States Embassy multiple times to find Nelson or a record of his arrest, but they could not locate him. It was not until we took matters into our own hands and contacted Mr. John Kamm at the Dui Hua Foundation, which tracks and assists American detainees overseas, that we were able to confirm that Nelson had indeed been arrested. We think that somehow he had not been considered an American citizen—even though he, his wife, and his children all are citizens—and had fallen through the cracks. Only then did the U.S. Government begin working on behalf of our son. By then, precious months had passed.

For Nelson's part, he had been incarcerated all that time in China, a country where he was only visiting, where he did not read or speak the language, and where he did not know if we were looking for him or even knew he had been arrested. It must have been torture for him. It was not until a Chinese lawyer we hired appeared at one of his court proceedings and passed him a note that he learned we were aware of his predicament. The lawyer could not represent Nelson, but he was able to provide him with a lifeline. Frightened and desperate to reach out to us and unfamiliar with the documents he was being presented, Nelson was willing to do anything to improve his conditions, even plead partially guilty so that he could enter the prison system and be allowed phone calls home, more regular contact with American Citizen Services, and other benefits. It was at that time that we were able to speak with our son, albeit on short calls that were heavily monitored and would

disconnect abruptly when he attempted to share sensitive details about his treatment or condition or when we would express our own frustration.

We learned that Nelson had been arrested on a drug charge. As he was leaving the country, he naively agreed to carry a bag of what he thought to be baked goods for a so-called friend through security at the airport. Those baked goods were allegedly laced with illegal drugs. That so-called friend made it through, but Nelson did not. For that one mistake—that one betrayal—his life, his wife's life, his children's lives, and our lives will never be the same.

PRIORITY CONCERNS

Though Nelson admitted partial guilt, he did not speak the language, never received proper due process, and did not have adequate legal representation to be able to offer a defense to the allegations or fully understand the terms and consequences of his pleadings. There were some bright spots: Nelson originally received a death sentence, but that sentence was ultimately reduced in 2019 to 22 years. We are thankful to the Chinese government for that, but his sentence did not include time served. This means that Nelson will not be released until the year 2041 when he is in his late 60s, if by some miracle he survives.

In the years since 2014, my wife and I have become consumed with efforts to secure Nelson's release and to ensure his safety and health while imprisoned. At first, we did not have access to trusted lawyers or advisors that we could count on to advocate for Nelson and not take advantage of us. We expended almost all our savings in those early years via trial-and-error efforts to help Nelson and without meaningful guidance from our own government. With the exception of some former prisoners who were able to get messages to us and third-party advocates, we were virtually alone and operating in the blind. For years, we wrote letters to our Members of Congress, to the White House, to State Department officials, to Democrats and Republicans, to anyone who was in a position of influence, but our calls for assistance went unanswered.

American Citizen Services in Beijing was helpful in visiting, calling, communicating with, and reporting back on Nelson, but some case officers were better than others and they changed frequently. One of Nelson's best officers is working with your Committee now, and his current case officer is outstanding as well. For that, we are forever grateful. But no matter how good or how well meaning, with each swap of a case officer, it feels like we, like Nelson is starting all over—having to re-tell his story, re-teach his spoken and unspoken language, and recount his mental and physical health challenges. The inconsistency takes its toll on him, as have the years of incarceration.

While in the beginning we heeded warnings not to shine a public light on Nelson's story out of fear of retaliation against him, his declining health has forced us to escalate our efforts to share his story and gain attention for him in the hopes of mounting political and public pressure and ultimately diplomatic intervention. While it shouldn't be this way, we have seen with other released prisoners that public pressure—and perhaps nothing else—works; it encourages the government to prioritize your loved one and to advocate more aggressively for their release.

Over the years, Nelson has been a target for being one of the few Americans and Black Americans in the prison, which has exposed him to harsher treatment and sometimes physical attack. He has suffered from debilitating chronic pain, seizures (a Chinese MRI report shows he has an atrophying of the brain), malnutrition, internal issues, dental pain, severe depression and thoughts of self-harm. We also know that based on family history, Nelson needs regular cancer and heart health screenings, which it is not always clear he has received. He also needs regular contact with mental health professionals, regular calls and ideally video calls with us, and the ability to speak English with another person on a regular basis. Without these things, we fear that he will die in prison from physical or mental illness and without our ever seeing him again.

Thus, my wife and I built a multidisciplinary team of China legislative and communications experts, including Peter Humphrey, who is also testifying today, and also with the help of Marc Morial, President of the National Urban League, who is a childhood friend. We decided to share Nelson's story loudly, beginning in Louisiana with KSLA's Domonique Benn. After her 2023 story on our fight for Nelson's release, we began garnering attention from Louisiana to Washington and beyond. We are especially thankful to Senator Bill Cassidy and his team, who are working on our behalf, and the many journalists in the United States and China who have reported on our story. We are also thankful to the Commission for inviting us here today to share our story—the story of everyday Americans who found themselves in the midst of an international diplomatic nightmare.

Still, a meaningful change in Nelson's circumstances has remained out of reach and only underscores the difficulty, and sometimes hopelessness, of our situation, where we feel thwarted at every turn. For example:

1. Nelson is not considered a political prisoner or as being held unjustly, even though he received an impossibly harsh sentence for a first-time offender and did not receive proper due process, which means his case has not received the same diplomatic attention as others within the State Department.

2. Nelson's declining health, length of time served, and record of good behavior certainly should make him eligible for some sort of humanitarian release, but we have been told that this is not a possibility. It should be noted that over the past decade, Nelson has been a cooperative prisoner. Indeed, he promised me personally that he would not fight, even if he is provoked or attacked. He doesn't want to do anything to make his situation worse.

3. Nelson has also sought to utilize a 2018 law in China that allows for a prisoner transfer to an American facility, absent a bilateral treaty with the home country (Law of the People's Republic of China on International Judicial Assistance in Criminal Matters). Unfortunately, the United States still requires a treaty to engage in those negotiations and so Nelson remains in Chongqing Yudu Prison.

We are at a loss as to what to do next, but whatever the pathway, we are asking, pleading with this Commission, with Congress, with the Administration—including the State Department and the Justice Department, and with the Chinese government, to work together on behalf of our son to find a solution that brings him home to us.

When our country asked us to serve, my wife and I did so unreservedly and without hesitation. I even served in hardship posts, including during the Gulf War. I am asking now for your help on behalf of my child. He is a man, but as every parent here knows, he is still my child, and I cannot leave him behind. I am asking you also not to leave him—an American citizen—behind. We leave no man behind, right? We are people of faith, but he is losing faith. He feels alone. He feels helpless. We all do. I do not know how long I will be able to implore him to hang on.

Please help our family by creating a pathway for outright release or prisoner transfer to a home prison. Please make improvements to the process for meaningfully working with detained citizens and their families so that they have help in navigating these crises and are not targets for abuse. The State Department should be focused not only on care for detainees, which is important, but also on offering resources and pathways for release, which is critical.

Finally, we must improve diplomatic relations with China so that our citizens can travel abroad safely and that when an arrest happens, we can ensure their fair treatment. We were once told by a State Department official that Nelson should have never been in China in the first place and that citizens are warned about traveling there. In addition to this being a callous statement, it is also an unfair one, as those types of warnings were less clear in 2014 than they are now. More importantly, what good does that do Nelson or our family now. We still must bring him home. I am sure the official meant no harm, but no family should ever ask for help from the government only to be ridiculed.

In addition to Nelson, we ask that you collectively help the hundreds of other Americans who are languishing in Chinese prisons and prisons elsewhere, who are perhaps worse off than us—Americans who are not before you today, who have not received media attention, who do not have Members of Congress working on their behalf, and who are known only to their loved ones. They need to have their stories told. They need someone to fight diplomatically for their release and at the very least for their fair treatment, their health, and their safety.

On behalf of my son and all the sons and daughters who are still incarcerated on foreign soil, thank you for the opportunity to testify today, and I look forward to answering your questions during and after the hearing for the record.

PREPARED STATEMENT OF HARRISON LI

Today marks 2,932 days—more than 8 years—since my dad, Kai Li, was taken by the Chinese government as a bargaining chip. He spent 2 months under “residential surveillance at a designated location” during which he was held at a secret location and interrogated harshly day and night without any access to legal counsel. Then almost a year passed before he was subjected to a closed-door sham trial, and then another year went by before he was sentenced to 10 years in prison for stealing so-called “state secrets”—even though said “secrets” are freely searchable even on the firewalled Chinese Internet. More than 3 years ago now, the United Nations

Working Group on Arbitrary Detention demanded his release in a landmark decision. Yet despite all this, we have seen no positive movement in his case or those of the other Americans wrongfully detained in China.

Officials at all levels of the U.S. Government constantly reassure us that securing my dad's freedom is their "highest priority." Yet their actions, or rather the lack thereof, show otherwise. Since the day President Biden took office, our family has made countless requests through the State Department, Congress, and White House National Security Council to meet with him. In that time, the President has met with the families of many Americans detained in places like Gaza, Syria, Russia, and Iran, while every single one of our requests has gone unanswered.

In my last two trips to D.C., I sat outside the White House with the families of several other wrongful detainees in the Bring Our Families Home Campaign. Both times, we watched the President and/or his National Security Advisor, Jake Sullivan, meet with the families of other detainees, leaving us out in the cold. Why are we ignored like this? The administration is always quick to note that not all hostage families who've met with the President have seen their loved ones come home, and conversely many Americans have come home without meeting with him. But the numbers are clearly in the favor of those who have met with the President. That's not surprising, because as the reporting around last month's prisoner deal with Russia illustrates, when Jake Sullivan and the President put their heads together with hostage families, they can collectively come up with creative solutions to bring Americans home. Unfortunately, we do not see this happening with the China cases, even as my dad alone has now spent more time behind bars than Paul Whelan, Evan Gershkovich, and Alsu Kurmasheva combined.

Time is running out. No matter who wins November's Presidential election, we will experience a change of administration. We know (from experience, unfortunately) that that means months or years where no progress will be made as bilateral relationships and communication channels are re-formed. The next few months before President Biden leaves office thus form a crucial period for the administration to leverage the work they've put in to stabilize the broader bilateral relationship against the prospect of another spy balloon incident and negotiate a fair deal that will finally bring my dad home. Simply mentioning my dad's name in bilateral engagements won't be enough. And so we need all of you to raise your voices these next few weeks and call on President Biden to stop ignoring us and lead a whole-hearted effort to bring my dad home before he leaves office.

I have now spent a third of my life missing my dad. Every day, I wake up and shudder at the thought of him crammed into a tiny cell with as many as 11 other people, in deplorable conditions that Peter [Humphrey] here can unfortunately tell you about firsthand, as someone who spent two years in the same prison. In the last eight years, my dad's suffered a stroke, lost a tooth, and endured draconian COVID-19 lockdowns for more than three years without climate control. President Biden, how much more does he need to suffer before you stop ignoring us?

PREPARED STATEMENT OF TIM HUNT

My sister Dawn Michelle Hunt is incarcerated in Guangdong Women's Prison. She was arrested in 2014 and charged with smuggling, a charge she vehemently denies. Dawn was born on 12 June 1971, so she is now 53. She was a receptionist at the time she was arrested. As I write this, I think of the numerous times I've written to officials, lawyers, and anyone else who would listen. I think I've written this type of letter hundreds of times since her incarceration, but over the years, things have changed. My sister and my family are getting worn down. Dawn's health has been failing, and our father's health is failing as well.

It all started when my sister was tricked into believing she had won a contest. She received an email stating that she had won a cash prize. When she contacted the contest organizers, she didn't believe it at first, so she checked them out online and was surprised that the info they gave her checked out. With that, she sent them her passport information and they sent a ticket for her to travel to Hong Kong. She was there for nine days and she told me that the organizers treated her well. She went sightseeing, shopping and started to trust the organizers who put together her trip. After exploring Hong Kong, she was asked if she wanted to visit mainland China. After her positive experience in Hong Kong, she agreed. She acquired a visa for mainland China while she was in Hong Kong with the help of the organizers who put together her initial trip. She then flew to mainland China and traveled around, sightseeing and shopping for nine days. She was then asked if she wanted to visit Australia as part of her prize. Once again, she agreed.

Before leaving for her Australia trip, she was told she also won some designer purses. Excited about her upcoming trip, and trusting the organizers, she took the purses before her flight, not knowing drugs were sewn inside the linings. She explained to me that the organizers wanted her to pack the purses in her luggage. She told them that her luggage was full so she and some people who organized her trips went to the Baiyun leather market and the organizers purchased an additional bag for her.

She told me that while she was in the airport in China, on her way to Australia, she was called by airport security. They escorted her to a room and the luggage she checked (she checked two pieces) was in the room as well. She was asked if the luggage belonged to her, to which she responded “yes.” She stated that she was asked multiple times and each time she said “yes,” not knowing drugs were in the lining of the purses she won from the organizers of the contest. She told me that she even paid a small excess weight fee since the luggage was slightly over the weight limit when she checked in for her flight.

I hope you can see that something like this could happen to a lot of people. As a matter of fact, in May of this year, the Secret Service issued a warning for law enforcement to educate the public on similar schemes. Unfortunately, my sister was arrested in 2014 and never received any such warning.

After her trial, she was found guilty and received the “death penalty with two years reprieve.” She was duped. She was scammed! She trusted the wrong people! She doesn’t deserve it. Although she told me it happened when she was taking a flight to Australia, a journalist said a court record says she was on her way to Qingdao in China on an internal flight. I don’t know the reason for this discrepancy. The death penalty for this?

In the years she was detained before her trial, she cooperated with the authorities, answered all their questions, and produced the emails she received from the organizers but unfortunately, it wasn’t enough.

Since her incarceration, she has developed physical ailments (uterine fibroids and possibly ovarian cancer) according to the doctors who examined her in prison. She has received numerous blood transfusions due to heavy bleeding and has been advised that she needs a hysterectomy, which she has refused out of distrust. How can she trust the same people who have incarcerated her after she cooperated with the Chinese authorities? How can she trust the same people she tried to help apprehend the organizers who had duped her?

My sister has never been street-smart. She’s trusting and believes that people are good. Being her older brother, I’ve seen her disappointed and upset when people in her life turn out to be something different from what they displayed. This has hurt her and has taken years from her life. When I visited her recently in prison, I could see the depth of her depression. She has lost weight; her eyes are bulging. She has an abdominal bulge on her right side, and her complexion is very pale. She told me that she still has to work in the prison despite her illness but that she can’t lift heavy objects because her fibroids might rupture and she would start bleeding.

After I visited her, I updated my father on her condition. I had to leave out some details of her physical appearance because my dad has recently been diagnosed with cancer and I wanted to avoid giving him an additional shock. I’d also like to share a bit about my father with you. He’s an Army veteran and a retired Chicago Police Sergeant of 32 years. I once witnessed him save our next-door neighbors when their house caught fire. Witnessing that event made such an impression on me as a kid that I followed in his footsteps and became a Chicago Police Officer and retired after 28 years.

Dawn Michelle is my dad’s only daughter, and he is devastated by her predicament. In a strange way, my dad’s locked up as well. He’s almost 91, freshly diagnosed with prostate cancer, has other health issues and is worried that with all this, he’s not going to live long enough to see his daughter free, safe, and at home. He’s getting worn down, just like my sister.

As I stated at the beginning of this statement, my family is getting worn down. We’ve gotten our hopes up, only to be disappointed again and again. The hearing that you’re having regarding the cases of unjustly detained Americans in China offers new hope.

Chapter 8, Transfer of Sentenced Persons, in The Law of the People’s Republic of China on International Judicial Assistance in Criminal Matters, offers a path for Americans incarcerated in China to come home, and it doesn’t require a bilateral prisoner transfer treaty. This hearing gives my family a bit more hope that not only will my sister, who was unjustly detained, have a path to come home, but also other unjustly detained Americans as well. We need the CECC’s help, and we need its advocacy to bring our loved ones home.

PREPARED STATEMENT OF PETER HUMPHREY



Before arrest



During captivity in a cage

INTRODUCTION

I am a British citizen. Half my family is American. My wife and son are American citizens. For much of my life I have interacted with American institutions. I have spent 49 years involved with China as an academic, teacher, journalist, corporate investigator, and philanthropist. I hold a degree in sinology from Durham University in England. I am currently an external affiliate of Harvard University's Fairbank Center for Chinese Studies, a member of the UK think tanks RUSI and Henry Jackson Society, and a pro bono mentor to families of foreign prisoners in China. I and my American wife Yingzeng Yu were wrongfully imprisoned in China in 2013–2015 on false charges of illegal information gathering for our due diligence firm, ChinaWhys, in an extensively publicized case. Since our release in June 2015 I have created an information and support network among families of foreign prisoners to lobby for their welfare and their release, as well as interviewing newly released prisoners in order to track changes in the prisons. Before testifying to this commission, I have testified to the UK Parliament and the Australian Senate and I have provided evidence to support China-related legislation in the EU Parliament on China due diligence and the import of prison labor products.

I am testifying to the CECC both as a specialist on justice and imprisonment in China and as a foreign victim of unjust imprisonment. I have a wealth of personal experience and insight after being a fly on the wall inside the Chinese prison system for 2 years, and one of the first victims of dictator Xi Jinping's crusade against foreigners, and for the past 9 years an activist who is exposing judicial and penal abuses that all foreign prisoners and detainees in China face.

In my statement I will include some high-level observations in addition to some examples of abuse in China's prison system, and I will touch upon the cases of some American prisoners that I have followed and supported. Finally, I will also make some observations and suggestions for improving policy in areas that need review and change.

First, let me also state that although we can see a number of American families presenting their cases of unjust imprisonment in China to this CECC hearing, there are a massive number who cannot or will not do so, largely due to fear of retribution against their loved ones locked up in one of Xi Jinping's jails. In addition, the communication of Americans languishing in China's prisons is deliberately obstructed by Chinese authorities, making it impossible for them to issue their own statements and pleas for help directly to such a hearing. We must keep all those Americans in our minds and hearts as we digest the testimony of the few who are able to testify. Regardless of class background, level of wealth, skin color, religious creed, or the crimes they are alleged by Chinese institutions to have committed, and whether "guilty" or not, they deserve equal support, as Americans. Some of them have been in Xi's jails for more than 10 years and are in dire health.

THE HUMPHREY AND YU WRONGFUL IMPRISONMENT CASE

The story of what happened to me and my family in the clutches of China's judicial and prison system has been extensively documented and written about in the media and in the American litigation records of my lawsuit against a former client of mine.

In short, after decades of benign involvement in China, one morning in July 2013, I and my American wife Yingzeng Yu were suddenly detained, our Shanghai offices and apartment were raided at dawn and our 10-year-old due diligence consultancy company was shut down without any legal grounds. I was 57 at the time, and my wife was approaching her 60th birthday. Our son, an American citizen, was 18 at the time and had just completed high school—our arrest orphaned him for the next 2 years and seriously damaged his educational path and career ambitions. Our only crime really was to have offended somebody who we had investigated and profiled for a multinational client who suspected her of defaming the company. She turned out to have powerful connections in the Communist Party and arranged for us to be arrested in revenge.¹

We never received a fair and transparent trial and we were treated inhumanely during 2 years of wrongful captivity. We spent over a year in a Shanghai detention center and the remainder of the period in prisons—me in Shanghai's Qingpu Prison and my wife in Shanghai Women's Prison.

The detention center was like a penal facility from day one and not a pre-trial detention facility. My cell was unfurnished and it incarcerated 12 men in a floor space of 17.5 square yards. The off white paint and plaster in the cells was rotting and peeling off the walls and ceiling. The other cellmates were mostly Chinese. Occasionally there would be another foreigner, from Africa or Asia. The ceiling lights were kept on 24/7. There was no furniture, no bed to sleep on. We slept on a bare, rough wooden floor, which was our bed, our breakfast and dinner table, and where we had to squat or sit cross-legged for most of the day. We never received outdoor exercise, sunshine or fresh air. The toilet was a hole in the corner of the cell open to the view of every cellmate and the surveillance cameras. There was never a moment of privacy. The only privacy was inside your own head. We ate three times a day from doggy bowls containing food that was pushed through the bars of the cell by convict laborers. The food comprised gritty rice, scraps of vegetable, and the occasional sliver of meat. The food lacked vital vitamins and minerals and we all suffered from malnutrition and diarrhea, and quickly lost weight and grew weak. I lost 22 pounds. The cell provided no hot water but only cold water running from a tap in a crumbling stone sink. Medical attention was grossly inadequate. One cellmate was dying from heart disease and another, a Chinese-born American citizen, was suffering from a failing liver transplant that he had undergone just weeks before he was arrested on murky fraud charges in the middle of his own wedding party. The detention center authorities refused to acknowledge my prostate cancer situation and withheld medical treatment for it for the whole duration of my arbitrary detention there.

I and my wife were subjected separately to daily interrogations by the police (PSB) and initially also by State Security (MSS) who tried to pin an espionage charge on us. In the end they charged us with illegal information gathering under a law which at the time of our business activities did not make our business activities illegal. (Since our release China has introduced new laws which make all information gathering potentially illegal, regardless of the means used to gather it.) During this detention and interrogation period, I and my wife were allowed no contact with each other. After 6 months we were allowed to write letters to each other but these took weeks or months to travel 300 meters through the concrete walls of the detention center due to three layers of censorship. They were censored and sometimes confiscated without us being told. We were not allowed to discuss our case in these letters. Correspondence with family was highly restricted. No family visits were allowed. This severely hampered our efforts to help our 18-year-old son who was suddenly cut adrift by our disappearance and had no access to our family funds. But we received occasional welfare visits from our respective U.S. and UK consulates bringing messages, letters and reading material.

In short, the conditions in the detention center in their totality added up to torture designed to crush the human spirit and force out a confession, and failed to meet the standards required by international conventions or treaties that China has signed.

¹I cannot name this client here, for legal reasons, in order to comply with a legal settlement between the Humphrey family and the client, the terms of which are confidential. I can only refer to the public dockets.

In April 2014, my wife's brother, Bernard Yu, an American citizen born in Ohio, died in Maryland from a fast-moving cancer accelerated by the stress that he was experiencing in handling his younger sister's incarceration. His situation was withheld from my wife until our trial and she never had a chance to say goodbye to him. He was her only other close relative from her original nuclear family. She was only informed of his death on the morning of our sham trial in August that year, which seriously destabilized her in court, no doubt intentionally.

During our detention we were allowed only minimalist meetings with defense lawyers, whose hands were tied by a rule that requires all Chinese lawyers to obey the Communist Party or lose their license. These meetings never enjoyed any privacy. The meetings were held in a cell with bars between me and the visiting lawyer and were held under surveillance. No documents were supposed to be exchanged.

Needless to say, our defense was thus rendered useless. On 8 August 2014, we were taken to a court for a show trial that lasted 1 day and we were sentenced immediately—me to two and a half years and my wife to 2 years. We decided not to appeal because we were falsely led to believe that life would be easier in a prison, especially for my wife who was ill with swollen kidneys, and because the time required for an appeal process might exceed the length of our sentence.

For 1 month between the trial and my transfer to prison, I was in a transit cell for men who had been sentenced and were either awaiting transfer to a prison or were in the process of appeal. It was in this cell that I met the American prisoner named David McMahon, whose travesty I am separately presenting to this hearing, David having authorized me to take his case public over 5 years ago. I was so shocked by the sheer injustice of his case that I spent that month in interview mode, getting to know him as well as possible and assessing his case. We shared reading materials including books, magazines, and judicial documents and became good friends. David McMahon was a primary school teacher who worked at the French International School and had been falsely accused of molesting a 6-year-old girl in school. He showed me his indictment and judgment documents, family photos and love letters and I concluded that he was a normal heterosexual man in a normal loving heterosexual relationship with a female American school teacher, who would never be a pedophile and who had been wrongly accused. He was the victim of a witch hunt by a French mother whose daughter had been molested the previous year by another American teacher who was indeed a fugitive pedophile, Hector Oruela, and who was extradited to America and is now serving a long jail term for crimes he had committed in the U.S. Oruela was never tried in China and the French family resented this. They seized upon a proxy fantasy that their daughter had been molested by David.

Life in Qingpu Prison² was certainly not easier than in the detention center even though I was placed in a cell block designated exclusively for around 150 foreign citizens. Again I was in a 17.5 square yard cell shared among 12 cellmates, a standard cell size in Shanghai. The cell had two-tier bunk beds on each side with a very narrow floor space in the middle. Lights were kept on 24/7, although dimmed at night. Food was similar to the detention center, although warmer, cleaner and with a bit more protein, eaten in a separate "activity room," at tables, served by fellow prisoners. We received one boiled egg per week every Sunday. There were restrictions on receiving or sending our letters—all are censored by language officers known as "letter captains." And restrictions applied to receiving reading material—subjective censorship decisions are made by officers who confiscate anything that they deem to have a political nature.

I was placed in a "training cell" where a "chief prisoner" was assigned to bully me, and a particular officer known to be sadistic was placed in charge of my cell with the specific mission to bully me into signing a confession. Other prisoners were ordered not to speak to me because I was a British "spy."

Most of the prisoners were participating in mandatory manufacturing labor and some were employed as corridor cleaners or food servers. I boycotted the labor system and got away with it, perhaps because my sentence was short and I had no interest in earning points for a sentence reduction. Only through labor and through writing mandatory thought reports and confessions of guilt can you earn merit points and apply for sentence reductions. I had no intention of confessing to a crime that I had never committed. Most prisoners with longer sentences (including life terms) crumbled and many innocent people falsely confessed to uncommitted crimes in order to obtain sentence reductions.

In connection with forced prison labor among foreign inmates, I published a series of articles in the Sunday Times in December 2019 about Qingpu inmates packaging

²Qingpu Prison is the very same prison where Kai Li and David McMahon are held today.

Christmas cards for the British supermarket chain Tesco, and Quaker Oatmeal sachets for Pepsico. (See reading list at the end of this statement.)

During my time in Qingpu, I witnessed frequent rough handling and beating of foreign prisoners and instances of brutal solitary confinement for the most minor of offenses such as refusing to get out of the bunk bed. Solitary included food deprivation, sleep deprivation, and water boarding sessions that were performed by trusted Chinese convicts, according to prisoners who suffered this treatment.

Overall, the conditions in Qingpu Prison added up to torture as defined in the international treaty on torture and the international convention on minimum standards of treatment for prisoners which China has signed.

In Qingpu, again, medical attention for my prostate cancer was deliberately withheld, this time on blatant illegal grounds: Whenever I asked for treatment, I was told, "You have not confessed." It was only in the 21st month of my captivity in April 2015 that I finally obtained an MRI scan confirming my tumor. I managed to get this information out to my son and to my consular representative. I made clear I would use this news to overcast an impending visit later in 2015 to the UK by President Xi Jinping. Soon afterwards, I felt that certain wheels were moving to try to get rid of me.

The most senior officer of the foreign cell block, and the governor of the prison, tried to negotiate with me to formulate some kind of statement—they wanted an acknowledgement of guilt but they were not going to get it and never did. In the end they settled for a fudged statement full of conditional clauses, ifs and buts. And even this I signed only under duress. In June 2015 they finally released me with my wife, after fabricating paperwork that claimed we had acknowledged our crimes, behaved well in prison and reformed. All of this was a sheer box-ticking fabrication, a show. A big lie.

We arrived in the UK on 17 June 2015. I underwent 5 years of prostate cancer treatments which failed. The 2 years in captivity without medical treatment for it had allowed it to advance to a dangerous point. In the end, in 2020, I had to undergo the removal of my prostate in its entirety to save my life. Although life-saving, this has brought life-changing consequences and daily management issues. I also underwent 5 years in and out of PTSD counseling, which has been unsuccessful. I still suffer from painful flashbacks and panic attacks. Although I have obtained some triumphs and exonerations outside China, delving into the fine details of my ordeal remains a huge mental and emotional struggle and I remain fragile as a result of my mistreatment, sometimes unable to marshal my thoughts as clearly as I could before this ordeal. A man leaves a prison, but a prison never leaves a man.

PRISON POPULATION

There are no reliable official statistics for the number of prisoners in the People's Republic of China because China intentionally obfuscates the situation. Based on piecemeal data available from various sources, and on my own experience inside the system, on anecdotal information from prisoners and on my research, I estimate the prison population to be approaching ten million in various forms of regular and irregular incarceration.

Based on my most recent research, I estimate the number of foreigner prisoners in China to be approaching 10,000, having doubled under the rule of Xi Jinping. Two very large segments are Africans and China-born foreign citizens. Very few foreign governments have disclosed how many of their citizens are held in China. Australia has disclosed that 55 Australians are being held. Canada has admitted to there being 92 Canadian prisoners in China. Japan has admitted to 17 Japanese.

America and the UK and many other countries have withheld such data, citing "privacy concerns" as an excuse. But these total numbers are not a matter of privacy at all. The public needs to know. My own research estimates that there are close to 300 Americans, including many China-born American citizens, held in various forms of incarceration and detention in China or subject to exit bans.

The American prisoner segment in Chinese prisons has ballooned since the 2000s as a result of a cooperation agreement on transnational crime between China and the United States during the Obama-Biden administration in areas such as drugs, pedophiles, trafficking and money laundering. The PRC seems to have taken this as a green light to arrest Americans. Then, in 2012/2013 when Xi Jinping took power in China, Chinese newspapers suddenly started talking about cleaning up all the "foreign trash" on China's streets and the arrest of Americans gathered pace. It was in this period that egregious false imprisonment drug cases such as those of Mark Swidan, Nelson Wells, Jr., and Dawn Michelle Hunt occurred.

By all accounts and standards, China's prison system is indeed a veritable "gulag." Its inmates are victims of injustice, as I will demonstrate here, and they

are forced to work against their will to the profit of the prison system and its officers.

JUDICIAL AND PRISON SYSTEM

Publicly available research and firsthand testimony make it clear that China's legal system, judicial system and prison system act as an organic whole to exercise repression, resulting in systemic abuse on a massive scale, including wrongful imprisonment.

Research and firsthand experience make it clear that police, prosecutors, and judges all hail from the same stable—the Chinese Communist Party (CCP). And lawyers are compelled to obey the Communist Party, making them part of the same unfair and opaque system. Trial judgments are not determined by the judge on a case but are handed to the judge by a Communist Party committee who sits above him, known at the local level as the Political and Legal Affairs Committee and at the national level as the Political and Legal Affairs Commission. At every stage, whenever an official signs off on a detention order, a charge, an indictment, a judgment, they are taking a political step and immediately they have a political stake in this decision not being found to be mistaken and then reversed. In this sense, every convicted prisoner is a political prisoner, a prisoner of the political system.

As a victim and as a fly on the wall inside the system for 2 years and having conducted many investigations for the private sector over a 15-year period when I was in the due diligence business in China before my arrest, I observed that Chinese police do not conduct investigations with any real detective work or forensic procedures. They rely upon extracting confessions from detainees who are interrogated day by day under duress locked inside cages (as was I) with no lawyer present, and by extracting so-called witness statements (which are also often coerced) to frame the case the way they want it to be. Contradictory evidence is not allowed. People like American citizens Nelson Wells, Jr., Dawn Michelle Hunt, David McMahon, Kai Li, David Lin, Mark Swidan, to mention but a few, never stood a chance. (Nor did I and my wife.)

The system during Xi Jinping's reign has also often used televised forced and false confessions broadcast on the main party-owned outlets CCTV and CGTN in violation of the country's own laws and constitutional provisions on trials, to prejudice a trial and poison Chinese public opinion. I and my American wife were the first foreign victims of this illegal practice.³ Our false TV "confessions" were broadcast to the world without our consent or awareness at the time.

After my release, I waged a campaign and legal action in the UK alongside an NGO against CGTN and CCTV. It resulted in the UK TV regulator Ofcom fining CGTN and stripping its UK broadcast license over the illegal forced confession broadcasts of me and my wife and over the fact that CGTN was owned by a political party, which is illegal in the UK. I also assisted other victims to file similar complaints. I would encourage other countries such as America to follow the UK lead on such action. (This would not be an assault on freedom of expression, it would be an action to protect the human rights of Americans abroad.)

There is no fair and transparent judicial process. Defense lawyers are prevented from conducting genuine and vigorous defense. No defense witnesses are allowed to be called to court. (Multiple defense witnesses wanted to testify in support of David McMahon but were not allowed.) Defense evidence is not permitted to be presented. Defense lawyers who try too hard are debarred or jailed. Prosecution witnesses are not required to appear in person—only written testimonials are presented and cannot be challenged. There is no cross-examination of prosecution witnesses by the defense.

As many as 99.9 percent of prosecutions in China result in convictions and sentences. And 99.9 percent of appeals are rejected. As beneficiaries of an open and fair judicial system in, say, America and the UK, we know that such glorious figures are simply not credible.

China's pre-trial detention centers do not function like pre-trial custody regimes but as penal regimes from day one, even when a detainee has not been indicted, tried and convicted of any crime. The harsh conditions which I described in my long FT Weekend Magazine article published in February 2018 (<https://www.ft.com/content/db8b9e36-1119-11e8-940e-08320fc2a277>) have grown worse since my own stay in the Chinese prisons. I have interviewed released foreign prisoners, who have reported unspeakable woes in pre-trial detention. The detention centers are designed to crush the human spirit with the result that many prisoners falsely confess

³See photos at the top of this document. One photo shows me in a steel cage for the fake TV confession.

to a crime they never committed. Grown men and women cry inside those walls every day.

In the post-trial prisons, the Xi dictatorship has steadily toughened and harshened prison regimens for foreign prisoners, reducing food rations, exercise, family phone calls, letter writing, the receiving of comfort packages, reading materials and so forth, and sentence reductions have become impossible to obtain without signing false confessions and submitting to coerced manufacturing labor.

Keep in mind one very important thing: Among the millions of prisoners in the system, *not a single prisoner has ever had a fair and transparent trial*. Not a single one. Sentences tend to be reckless, inconsistent, and disproportionate to any offense. The entire system is arbitrary and subject to the whims of Communist Party officials and their friends. The system works to favor anyone with “guanxi” (connections) to use the law to bash people they dislike. The tone of this behavior has been set from the top down. This results in substantial harm to masses of innocent people.

As a result we cannot, by any stretch of the imagination, treat China as being a country under the rule of law and we should not accept any charges or trial judgments against our citizens at face value. They must all be challenged.

FORCED PRISON LABOR SYSTEM

China’s entire prison system holding many millions of prisoners is in fact at the same time a gigantic, self-perpetuating commercial enterprise which brings profits to the state, and income to prison officers, in other words a “gulag.” This funds prison operations across the country. Foreign prisoners are not exempt from such labor.

Every Chinese prison imposes forced production labor on its prisoners for the commercial gain of the prison system. I have observed that prison officers are employed as labor supervisors, marketing and sales managers, and they get bonuses and perks for winning orders and for high production output. Designated officers go out to win orders and contracts from commercial manufacturers. Every prison has incorporated one or more companies to hold this business.

Those of us who have been guests of Xi’s jails have witnessed this system in practice. Those who refuse to participate in this labor get no merit points for sentence reductions. All other privileges such as spending on the prison shopping system, calls to family, family visits, reading and letter writing, etc., can be withheld if you refuse this work. Even food rations can be reduced. Recalcitrant prisoners get sent to solitary. (I personally was threatened with solitary when I refused to sign a confession.)

Prison campuses contain entire factories making a range of goods, from sports shoes, apparel and daily hardware items, to electronics such as keyboards and appliances. Chinese prisoners work up to 12 hours a day 6 days per week. The seventh day is spent on writing thought reports and on ideological study and on hand-washing clothes.

Accidents are frequent in the factories. I met many Chinese prisoners (and some other Asians) in the Shanghai Nanhui Prison hospital with broken bones caused by factory accidents.

Foreign prisoners, including Americans, in most prisons, do not usually perform heavy factory labor (except Pakistani prisoners who are all held in Xinjiang) but perform manual tasks that require no machinery. Most perform this labor in a work room in their own cell block. In Qingpu Prison, where I was held, they worked five and a half days a week, occasionally more. However, in some other prisons, African prisoners have complained that they are working 12-hour days every day—the same hours as Chinese prisoners—and consider themselves as “slave labor.”

The typical work of foreign prisoners, including Americans, includes making gift bags for retail chains (including China’s biggest duty-free shopping chain), making packaging materials, packaging items such as Christmas cards, plastic tags for retail display racks, keyboards, and breakfast oatmeal sachets, as witnessed among the foreigners in Qingpu Prison.

I wrote extensively in the Sunday Times in December 2019 about the packaging of Tesco Christmas cards and Quaker Oats as revealed by foreign prisoners at Qingpu Prison in a message smuggled out inside a Tesco Christmas card box and found by a little girl in London at Christmas in 2019. [See page 54 for links to the articles.]

While a prisoner in Qingpu Prison, I personally witnessed items being made or packaged for labels bearing the names 3M, H&M, C&A. Other prisoners that I have interviewed after their release have listed additional brands owned by companies in a number of countries appearing on items being made or packaged in Qingpu Pris-

on. These names have included PepsiCo, Tesco, Zara, and Disney. These practices are repeated in all Chinese prisons.

With this system, Chinese prisons make huge profits for the authorities. There is no incentive to release prisoners early. There is every incentive to keep prisoners in prison for as long as possible to squeeze more labor out of them. And there is an incentive to grow the prison population.

Thus millions of prisoners are engaged in this enterprise against their will and without fair reward. For the Uighurs in Xinjiang labor camps things are even worse.

Most of the almost ten million prisoners in China are performing forced labor for the commercial gain of the prison system and hence for the CCP dictatorship.

I advised on and participated in a documentary film premiered last year which investigated forced prison labor in China, *SOS from a Chinese Prisoner*, which can be viewed here. It contains some remarkable details. <https://vimeo.com/manage/videos/894499408/952924accf>.

DUE DILIGENCE

Before I was wrongfully imprisoned for 2 years in 2013, I had spent almost 20 years as a Reuters journalist, and then 15 years as a private sector due diligence and anti-fraud investigator running my own well-regarded consultancy, named ChinaWhys with offices in Shanghai, Beijing and Hong Kong.

I have extensive experience in performing due diligence in China for multinational companies, including many large manufacturing companies with deep and complex supply chains, and many American law firms. For example I have conducted investigations for Dow Chemical, Dell, Apple, PepsiCo, Terex, Baker MacKenzie, Jones Day, H&M, BMW, Daimler, Unilever, and Rolls-Royce Engines, to mention only a few.

In general, many multinationals sub-contract work to Chinese factories, which in turn may further sub-contract parts of their own job to other small factories and so on. This creates a complex and murky supply chain. So very often a multinational has no knowledge of what is going on at the bottom, such as the use of a prison enterprise or child labor. To illustrate this very simply, a fashion company may commission a Chinese factory to make the trimmings for a pair of trousers. But that Chinese factory contracts another factory to do the zippers, and another one to do the buttons, and another to do packaging, etc. Tesco had no idea that its Christmas cards were being packaged by a prison. Much of the work done by foreign prisoners is indeed such packaging and simple manual assembly.

The only way that companies become aware of this prison labor is when a prisoner manages to smuggle out a whistle-blowing message and it gets into the media. This happened with the Tesco Christmas cards in December 2019. Since then I have seen several similar messages emerge from various other Chinese prisons, related to completely different products including pregnancy test kits made at a prison in Tianjin and PPE products such as COVID masks made in a prison in Guangdong, all sold in Europe.

It was always difficult for due diligence investigators to drill to the bottom of the chain but Xi Jinping has recently erected barriers to all information gathering by foreign companies and their agents, making meaningful on-the-ground due diligence impossible today. First it introduced privacy restrictions that limited due diligence activity. And the latest example is the new anti-espionage law introduced last year. Now, many activities that previously might have been treated merely as privacy matters have been moved under the spying law and could result in life sentences.

In these circumstances, multinationals cannot satisfactorily check whether a Chinese company is using prison labor or other illegal unsocial labor. The only way to avoid this risk today is not to do business in China at all. Anybody who says you can avoid it is either lying or fantasizing.

LIFE AND DEATH MATTERS

The Chinese prison system weaponizes prisoners' health and medical care as an instrument to extort written confessions to crime, refusing to provide needed medical attention to prisoners who refuse to admit guilt. This is what happened to me and many others. They refused to treat my suspected prostate cancer and by the time of my release after 2 years I had developed advanced prostate cancer and then had to battle it for 5 years after my return to the UK. Finally my treatment failed, my cancer relapsed and my prostate had to be removed. I am lucky to still be alive.

Imagine what this means for anybody held in such conditions with a long sentence to serve, such as Americans Nelson Wells, Jr., Mark Swidan, Dawn Michelle Hunt, David Lin and many others.

This practice is the norm in Chinese prisons. Medical treatment is also withheld simply to avoid spending money on it. I learned of several Chinese deaths inside my prison from untreated cancers. Since my release I have learned that a number of foreign prisoners have died soon after their own release, and at least two foreign prisoners in my cell block have died from cancer inside the prison in the last few years.

USG SHOULD TREAT ALL AMERICAN PRISONERS IN CHINA EQUALLY

I have reviewed many cases of foreigners imprisoned in China including Americans. I mentor the families and/or prisoners in around 25 cases on a pro bono basis, to varying degrees as needed. I and other volunteers have analyzed the situations of prisoners including available judicial documents, for prisoners such as Nelson Wells, Jr., David McMahon, Dawn Michelle Hunt, Mark Swidan, and Kai Li. I have followed other cases closely without being directly engaged to assist.

In all cases I have concluded that material and forensic evidence was absent in their prosecution, that these convictions are false, and that these cases would be thrown out of court in a country under the rule of law. I have concluded that not a single one of these prisoners received a fair and transparent trial and a proper defense. I have concluded through my wider research and experience that beyond these few cases, not a single prisoner in China as a whole has received a fair and transparent trial. The key values of justice that we espouse in democratic countries under the rule of law, and enshrined in the American Constitution, are absent.

America has a law known as the Levinson Act which sets criteria for defining who is arbitrarily detained and a hostage. Those thus defined are supposed to go onto the list of cases handed to the office of the Special Envoy on Hostage Affairs (SPEHA). Only three from China have made it onto the list. However, all American prisoners meet the criteria by dint of not having received a fair and transparent trial in front of an independent court. This needs to change. All Americans held in China are arbitrarily detained persons by this classification alone, not to mention the other criteria listed in the Levinson Act.

Nelson Wells, Jr.—the judicial documents show a lack of material, forensic evidence and a lack of proper defense. His self-defense arguments were ignored and he was never allowed to tell his story in full in court. Mr. Wells is over 50 and critically ill after over 10 years of a life term in prison. He would receive medical parole if he were not a foreigner. He qualifies for a prisoner transfer to America under Chinese law. The USG has not explored this opportunity with the Chinese side.

David McMahon—the judicial documents show a lack of material, forensic evidence and a lack of proper defense. The only witness was a 6-year-old girl who was clearly primed and manipulated by her mother and the prosecution to utter sheer fabrications and fantasies. He has served 11 years from an uncommuted 12-year sentence. He has never admitted any guilt—because he is innocent. When he returns to America in May 2025 he plans to sue parties who have harmed him.

Dawn Michelle Hunt—the judicial documents show a lack of material, forensic evidence and a lack of proper defense. She initially received a death sentence, now commuted to life. She is over 50 and critically ill in prison and qualifies for a prisoner transfer to America under Chinese law. The USG has not explored this opportunity with the Chinese side. In addition, she would receive medical parole if she were not a foreigner. Throughout her captivity Chinese authorities have obstructed her communication with the outside world and prevented her from telling her story until the family managed to get it into the New York Times on 11 Sept 2024. <https://www.nytimes.com/2024/09/11/world/asia/china-us-woman-imprisoned.html>.

Mark Swidan—the judicial documents show a lack of material, forensic evidence tying Mark Swidan directly to the crimes ascribed to him and a lack of proper defense. They show he was an innocent bystander who had somehow fallen socially into bad company without knowing the people. His fault was being in the wrong place at the wrong time with bad people, while his only reason for being in China was to explore the flooring products sector. For this he was sentenced to death now commuted to life. His story has been well told very loudly by his brave and vociferous mother Katherine, who is elderly and ailing and fears that she will never see her son again. Mark is critically ill, as witnessed by his own ambassador (Nicholas Burns) and would receive medical parole if he were not a foreigner. He should qualify for a prisoner transfer to America under Chinese law. The USG has not explored this opportunity with the Chinese side.

Kai Li—I have had no sight of his judicial documents proving the charge of espionage against him. I understand that these have been sealed by the Chinese authorities on grounds that it is an espionage case. This is a very convenient way for an enemy with powerful connections in the Shanghai establishment to cover up a delib-

erate act of false imprisonment perpetrated by a business rival. (My own judicial records are now also sealed.) Sources have pointed to a private business dispute being illegally criminalized against Mr. Li. I have seen other instances of this in Shanghai involving citizens of foreign countries. Other prisoners released from Qingpu say Mr. Li has ailments common to his age (62) but that he is coping reasonably well, working in the mini library of the foreigners cell block, with 2 years of a 10-year sentence still to serve.

CHINESE LAW ON PRISONER TRANSFERS

A Chinese law promulgated in 2018 commonly known as the PRC Law on International Judicial Assistance in Criminal Matters contains a Chapter 8 that sets out a pathway and mechanism for a foreign prisoner to be transferred to a facility in their home country. Separately, a bilateral agreement known as a Prisoner Transfer Agreement (PTA) exists between China and many countries but not with the United States. The 2018 PRC law puts the onus on the United States to open a discussion with China's Ministry of Justice and Ministry of Foreign Affairs on any individual case. It does not require the pre-existence of a bilateral PTA.

To the best of my knowledge the USG has never explored this mechanism with China on any individual case. I have even been told it is impossible because "we don't have a prisoner transfer treaty with China." But that is not the way the Chinese law reads. And it is not the way relevant NGO leaders and American lawyers in the U.S. and China see it.

I also noticed on my last reading of the U.S. State Department's guidance notes to its officers on the topic of American prisoners abroad that it does not even seem to be aware of this Chinese law. This has been a wasted opportunity to assist unjustly held American prisoners in China, none of whom have had a fair and transparent trial.

FINAL COMMENTS AND RECOMMENDATIONS

- In their aggregate, the harsh conditions in China's pre-trial detention facilities and prisons are tantamount to torture per international treaties and conventions.
- China's judicial and prison system violates international norms and treaties such as the U.N. conventions on torture and on minimum standards for the treatment of prisoners.
- The Chinese prison system is a political system of oppression and slavery, not a justice system.
- The Chinese system is not the rule of law and should not be viewed by America as though it is. In America we all know what the rule of law is.
- Forced labor products from China's prison system are entering our economies, including America's. We must legislate stronger laws to prevent this and we must enforce the legislation.
- Prisoners held in China for alleged common crimes (including Americans) are just as much victims of human rights abuse as China's own political and religious prisoners. The scale of this abuse is immense. In a system where every prosecution is political, all American prisoners are de facto political prisoners. America needs to recognize this and to act and legislate accordingly.
- Not a single prosecution case in China would survive the scrutiny of a court in America, the UK, or any other country under the rule of law. This postulation is very simple to put to the test in a simulated courtroom or even on a college campus.
- Countries which uphold the genuine rule of law, such as America, should abandon their practice of non-intervention in Chinese judicial cases involving U.S. citizens.
- In every case of a U.S. citizen being detained in China, the U.S. Government should challenge the processes and practices and the lack of transparency. America should intervene robustly both legally and politically in the cases of its citizens in China. This requirement should be contained in legislation.
- America owes this duty of care to its passport holders. This must not be only the privilege of one or two selected prisoners on the SPEHA hostage list. It must be the government's response to all such cases, regardless of skin color, class background, or the nature of the alleged crime.
- Congress should bring pressure on the USG to fully test the 2018 Chinese law on foreign prisoner transfers outside and beyond any bilateral treaty.

- America must impose mandatory due diligence requirements on all its firms to make them drill down their supply chains to ensure that there is no prison labor or other unsocial labor or illegal practices in the chain. Where China erects barriers to adequate due diligence, American firms must be legally required to abandon said business projects.
- Legislators and government should internationalize the issue of prison abuse and arbitrary and wrongful detention in China as a *systemic concern*. It is no less a human rights issue than political and religious persecution, and the scale is enormous.
- America should actively consider negotiated swaps for prisoners held for alleged “common crimes,” or even a mass swap, exchanging Chinese prisoners held in American jails for American prisoners held in China. Past experience (in China and Russia and elsewhere) shows this is a possible avenue.

[Recommended media docs for reference—internet links appear on the next page.]

Recommended media docs for reference – internet links⁶

FT Weekend Magazine article by Peter Humphrey on his life inside a Chinese prison (Feb 2018)

<https://www.ft.com/content/db8b9e36-1119-11e8-940e-08320fc2a277>

Sunday Times article by Peter Humphrey on prison labor and Tesco Christmas cards (Dec 2019)

<https://www.thetimes.com/uk/healthcare/article/tesco-charity-cards-packed-by-chinas-prison-slaves-v9psp9fqx>

Sunday Times article by Peter Humphrey on prison labor and Quaker Oats packaging (Jan 2020)

<https://www.thetimes.com/world/asia/article/chinas-prison-slaves-forced-to-pack-quaker-oats-mrbc8sgm>

The Diplomat article by Peter Humphrey on China cover-up of prison labor scandal (Jan 2022)

<https://thediplomat.com/2022/01/forced-prison-labor-in-china-hiding-in-plain-sight/>

Sunday Times article by Michael Sheridan on Peter Humphrey in the Chinese Gulag (July 2015)

<https://www.thetimes.com/article/inside-the-chinese-gulag-njcnm5sqtl>

Guardian's Mark Sweney on Ofcom probe into CGTN over airing forced confessions (May 2019)

<https://www.theguardian.com/media/2019/may/08/ofcom-investigating-chinese-channel-cgtn-forced-confession-claims>

BBC report on Ofcom punishing CGTN for broadcast of false confession

<https://www.bbc.co.uk/news/entertainment-arts-53308057#:~:text=Media%20watchdog%20Ofcom%20ruled%20that,his%20privacy%20had%20been%20infringed.>

Ofcom ruling withdrawing broadcast license of CGTN in UK

<https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-standards/ofcom-revokes-cgtn-licence-to-broadcast-in-uk/#:~:text=London%2C%2010%3A15%20GMT%2C.by%20Star%20China%20Media%20Limited.>

Reuters - Australian broadcaster suspends China's CGTN citing human rights

complaint [https://www.reuters.com/world/china/australian-broadcaster-suspends-chinas-cgtn-citing-human-rights-complaint-2021-03-05/#:~:text=Australian%20broadcaster%20suspends%20China's%20CGTN%20citing%20human%20rights%20complaint,-By%20Kirsty%20Needham&text=SYDNEY%2C%20March%205%20\(Reuters\),receiving%20a%20human%20rights%20complaint](https://www.reuters.com/world/china/australian-broadcaster-suspends-chinas-cgtn-citing-human-rights-complaint-2021-03-05/#:~:text=Australian%20broadcaster%20suspends%20China's%20CGTN%20citing%20human%20rights%20complaint,-By%20Kirsty%20Needham&text=SYDNEY%2C%20March%205%20(Reuters),receiving%20a%20human%20rights%20complaint)

⁶ Caveat: some sites may be paywalled.

PREPARED STATEMENT OF KATHERINE SWIDAN

Mr. Chairperson, distinguished members of the Commission, thank you for allowing me to share some thoughts with you today. My name is Katherine Swidan from Luling, Texas, and I am the mother of Mark Swidan, an American citizen who has been unjustly detained in China for 12 long years.

Mark is not just a statistic; he is a son, a brother, and a friend whose absence has left a gaping hole in our hearts and family. We are grateful for the congressional resolutions passed by the House and Senate last year. I thought he would be home by now, but 12 years into this, I am concerned that I will never see him again.

I wish I could be with you today, but my health is failing, and I need to remain strong and heal for the day Mark finally comes home. Over a decade has passed since Mark was taken from us, and every day without him is a day too long. Despite overwhelming evidence of his innocence and the arbitrary nature of his detention, Mark continues to languish in a foreign prison, deprived of his freedom, his health deteriorating, and his hope fading. I do not want my son to become another Otto Warmbier or James Foley.

I understand that diplomacy is complex and that negotiations with foreign governments can be delicate. However, the Chinese government has expressed a willingness to resolve my son's case, presenting proposals that, regrettably, have been met with reluctance or outright rejection by the Biden-Harris administration. Time is not a luxury that Mark or our family can afford. Every moment lost is a moment Mark is denied justice, a moment our family cannot regain.

Despite all the talk about human rights abroad and the U.S. taxpayer funding annual reports on human rights abuses around the world, there are no such reports about Americans like Mark unjustly detained overseas. We rightly highlight the suffering of the people of Tibet, the Uyghurs, and repressed Christians in China, but what about the rights of Americans who are wrongfully imprisoned? Who speaks for them?

Who ensures that the human rights of our citizens are not overlooked or forgotten while we champion those of others? The U.S. Government must remember that its first duty is to its own people, to defend their rights and bring them home. Do you realize that every time we issue reports condemning human rights in China, that is used against Americans and others who help or love our country? I support defending human rights, but we must focus on our people first. The Chinese may get upset about your reports, but they ignore these reports, but not when they talk about abuse of our people, such as Mark. Why is that?

While I am distraught with China for what they have done, I am even more upset with my own government. How many more Presidents must take office before action is taken? President Obama, President Trump, President Biden—none has brought Mark home. Why is that? Why do the well connected seem to have their cases resolved more quickly while families like mine are forgotten?

Mark is innocent. Even the United Nations Working Group on Arbitrary Detention (UN WGAD) has issued a report declaring his detention arbitrary and in violation of international law. The UN WGAD found no evidence to justify the charges against him and called for his immediate release.

Despite this, Mark remains imprisoned, his rights trampled upon daily, subjected to what this Commission knows is "white torture" and his innocence disregarded. How long must we wait while the world acknowledges what we already know: that Mark should be free and back home with his family? His case is a clear injustice, yet it continues to be ignored by those with the power to act. We need our leaders with moral and political courage to do right and use our power to bring Mark home.

I am here today not only as a grieving mother but as a voice for every American family with loved ones wrongfully detained abroad. I plead for your help. I urge the Biden-Harris administration to reconsider its stance and to engage earnestly with the Chinese government's proposals. Our loved ones are not bargaining chips or political pawns; they are human beings whose rights and freedoms must be upheld and protected.

As leaders of this great nation, I implore you not to let diplomatic complexities stand in the way of human decency and justice. I am pleading for my son's life, his freedom, and the chance to bring him home. Let us show the world that the United States of America does not abandon its citizens and that we will fight for their rights and their return, no matter the challenges.

A few months ago, Bishop Strickland from Texas visited me. We talked and prayed for Mark, a devout Catholic who, even in captivity, has stood up for fellow prisoners when they were abused by Chinese guards. Mark's Bible has been con-

fiscated and his rosary destroyed, but as I shared with Bishop Strickland, he has not lost his faith in God, family, or country.

I also want to thank Mel Gibson, who did a video for Mark and a Mass, and many Members of Congress from Texas, such as Representative Cloud and Senator Ted Cruz, for not forgetting Mark and his plight. Of course I thank the Commission, Chairman Chris Smith, and Senator Jeff Merkley and the staff for helping raise awareness about Mark's plight and that of other Americans.

In closing, I ask for your immediate action and commitment to engage in meaningful dialogue and negotiations for Mark's release. Our family is counting on you, as is Mark. Please help bring my son home.

Thank you for your time and consideration.

PREPARED STATEMENT OF HON. CHRIS SMITH

We open today's hearing knowing that Pastor David Lin is back in the United States after nearly two decades unjustly detained. Pastor Lin's crime was that he worked to strengthen the Protestant Chinese "house church" movement. For this, he received a life sentence.

We are overjoyed for the Lin family. This Commission has pressed the past two administrations to prioritize David Lin's case. We acknowledge the efforts of the Biden Administration to gain Pastor Lin's release and are hopeful that his release creates space for more releases, like of the family members of our witnesses today.

Despite the release of David Lin, there are more Americans detained in the People's Republic of China (PRC) than anywhere else in the world. Wrongfully detained U.S. nationals are serving long prison sentences—an average of 8 years. The families of Mark Swidan, Kai Li, Nelson Wells, Jr., and Dawn Michelle Hunt know these hard facts all too well. They have all languished far too long in Chinese prisons.

The Foley Foundation identifies 11 wrongfully detained Americans in China, including those subject to "exit bans." John Kamm, the preeminent expert on political prisoners in China, estimates that there are 200 or more American citizens "coercively detained," with 30 Americans being held in China under exit bans—where U.S. citizens are stopped from leaving China to settle economic disputes or to coerce their relatives to return to China to face alleged crimes.

This is unacceptable. If the Chinese government wants to improve relations with the United States, they should release Americans who are wrongfully imprisoned without condition and unilaterally end the use of exit bans, a form of de facto hostage-taking that violates article 12 of the International Covenant on Civil and Political Rights, a treaty that the People's Republic of China has signed—though not yet ratified.

But I'll go further than that. The release of American citizens should be the first thing President Biden says to Communist Party leader Xi Jinping whenever they talk. Their names should be said so often that Xi Jinping memorizes them. Their cases should be agenda item #1 at every meeting the Secretary of State has with Chinese officials.

And every U.S. official traveling to China should be repeatedly saying the names of Kai Li, Mark Swidan, Nelson Wells, Jr., and Dawn Michelle Hunt. Every channel of the U.S. Government must be focused on the release of wrongfully detained Americans. It's that simple.

All Americans detained in China deserve robust diplomatic assistance to gain their transfer out of prison or at the very least, to have more frequent U.S. consular officials visit, more frequent and longer visits with their families, and better access to legal representation and health care. Given the legal system in China, and the poor prison conditions—more Americans should be considered to be unjustly detained by the State Department.

How many Americans currently in Chinese prisons received a transparent trial, with a genuine legal defense, in an impartial Chinese court? In China's rule-by-law system, where the Party can dictate sentences of guilt or innocence—none.

How many detained Americans face serious health challenges because of the poor conditions in PRC prisons—

- where Chinese and foreigners alike are forced to work long hours?
- where they are often tortured or mistreated by guards and other prisoners?
- where they suffer from insufficient medical care and nutrition?

Your testimony about what you and your families endured while jailed should be submitted as evidence of torture to the Committee Against Torture for the upcoming review of China. I will instruct our staff to work with you to submit your testimonies to the United Nations High Commissioner for Human Rights and the U.S. Mission in Geneva.

But that is just a start. Given the number of Americans detained and the Chinese Communist Party's willingness to engage in hostage diplomacy, there should be more creative diplomatic approaches to counter the threat. To that end, I will introduce a bill with Rep. Tom Suozzi that will, among other measures,

- Direct the State Department to create a strategy for gaining the release of your family members;
- Gain insight into the diplomatic tools the State Department is using for your family members, including the use of designations and sanctions authorized in Executive Order 14078 "Bolstering Efforts to Bring Hostages and Wrongfully Detained United States Nationals Home."
- Seek more transparent information from the State Department about the cases of your loved ones, including gaining access to the resources Congress allocated to assist families with the financial burden of advocacy.

I know this is a tough and emotional day for our witnesses. No amount of words or sympathy from us can replace your missing loved ones. I hope you know that our purpose here today is to listen to your stories and to learn about your loved ones and their ordeal.

You must all know that we are here today because we are committed to bringing your loved ones home. As a Commission, we will continue to press the U.S. Government to do more for your loved ones. For my part, I promise to remain a tenacious advocate for their release. They have suffered too long. They will not be forgotten.

PREPARED STATEMENT OF HON. JEFF MERKLEY

Thank you so much, Chairman Smith, for convening this hearing, and much appreciation to each of you for coming to share your stories.

For more than two decades, Members of Congress and executive branch officials on this Commission have sought to shine a light on the prisoners of conscience who have been unjustly jailed by Chinese authorities for seeking to exercise their basic human rights.

Our Commission maintains a Political Prisoner Database that currently has 2,764 nationals of the People's Republic of China known or believed to be detained, and as the Chairman pointed out, the Foley Foundation has a list of about a dozen American individuals wrongfully detained in China. But human rights organizations' estimates go up to about 200. We don't know the exact number. What we know is this: Even one American detained as a political prisoner in China is one too many.

If an American breaks the law in China, that individual can be prosecuted just as a Chinese national would be here in the United States. But here is the problem. Many laws of the PRC are not consistent with human rights standards. Due process is routinely denied. And the rule of law is undermined by political considerations. Our U.S. Government has been developing some tools to counter this.

In 2015, President Obama issued directives to implement an interagency response to overseas hostage-taking, including creation of a Special Presidential Envoy for Hostage Affairs at the State Department. In 2020, President Trump signed into law the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act. In 2022, President Biden issued an Executive Order to authorize sanctions against foreign government officials and others who are complicit in hostage-taking.

With these tools and under President Biden's leadership we have seen a 42 percent decrease in the number of detained Americans overseas since a peak in 2002, according to the Foley Foundation. Among these was the recent high-profile return from Russia of Paul Whelan, Evan Gershkovich, Vladimir Kara-Murza, and others.

But not every American in detention overseas gets a spotlight. Today, we are putting a spotlight on three individuals: We will hear from the family members of three Americans—Kai Li, Nelson Wells, Jr., and Dawn Hunt—who have been unjustly detained in China for eight or more years.

We want to hear their story from their family members today. Because in hearing your story we're then able to tell the story. We can tell the story to the Administration and to the media. Most important, we can carry that message to, and work toward their release with, the government of the People's Republic of China.

Our Americans in detention suffer from illness and mental anguish. We want to make sure they get proper care and counsel. But most of all, we want them united with their families.

We are joyful that David Lin has been released and is now reunited with his family. What a celebration that is. But we want a celebration for each of your families. Reportedly, China wrongly holds more Americans than any other country. We want to know why the Chinese government refuses to allow them to come home.

Our U.S. Ambassador to China, Nicholas Burns, has met with three Americans wrongfully detained. Secretary of State Antony Blinken raised their cases directly with President Xi. But despite these efforts, despite the tools we have and the representations made, the Chinese government continues to turn a blind eye to the suffering and the heartbreak.

So today we not only hear your stories. Your stories represent the stories of so many American families of those detained, and they help shed light on the details of the circumstances and help us ponder what more we can do, as Chairman Smith has suggested.

We look forward to hearing from you.

PREPARED STATEMENT OF HON. JAMES P. MCGOVERN

My thanks to Chairman Smith and Co-Chairman Merkley for convening today's hearing on the People's Republic of China's detention of American nationals. Unfortunately, I am unable to attend in person, and so I submit my remarks for the record.

According to the Foley Foundation, there are 11 U.S. nationals wrongfully detained in China. Others believe there could be as many as 200. Wrongful detention is a human rights violation. Even one wrongful detention is too many.

The Biden Administration has demonstrated a clear commitment to obtaining the release of wrongfully detained Americans around the world, with some notable successes. In March 2023, the Administration brought Paul Rusesabagina home from Rwanda. In April 2023, Russia released Brittney Griner. In September 2023, five Americans jailed for years by Iran were finally freed. In December 2023, 10 Americans held by Venezuela came home.

And just a few weeks ago, the Administration achieved the release of 16 individuals, including 3 U.S. citizens and 1 green-card holder, who were unjustly detained in Russia. It was wonderful to welcome home Vladimir Kara-Murza, Alsu Kurmasheva, Evan Gershkovich, and Paul Whelan, and to see them reunited with their families. This is what we want for every wrongfully detained American.

The Administration is making good use of available tools, including those authorized in the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act, and President Biden's 2022 Executive Order intended to bolster efforts to bring wrongfully detained nationals home. Roger Carstens, Special Presidential Envoy for Hostage Affairs, has led the delicate diplomacy, often with staunch adversaries of the United States, that has made releases possible. But there are still many U.S. nationals wrongfully detained around the world, held on dubious charges, and denied due process—like the cases the Commission will hear about today. My heart goes out to the families of Kai Li, Nelson Wells, Jr., and Dawn Hunt, all unjustly detained in China for eight or more years.

Today is the opportunity to hear their stories, and their ideas for what more the U.S. Government should be doing to free their loved ones. I understand that U.S. officials have raised the cases with the Chinese authorities. We also know that, so far, the Chinese government has failed to respond.

I hope this hearing serves to identify additional approaches that could help bring these Americans home. Thank you.

SUBMISSIONS FOR THE RECORD

SUBMISSION OF JASON IAN POBLETE,
PRESIDENT, GLOBAL LIBERTY ALLIANCE

Chairman and Members of the Commission, I want to thank you again for the opportunity to address this critical issue, not just as a lawyer and advocate but as someone who has witnessed firsthand the devastation that these unjust detentions bring to American families.

Today, my brief remarks are focused primarily on discussing the case of Mr. Mark Swidan, a U.S. citizen who has been unjustly detained in China for close to 12 years. Mark's case is an alarming example of a broader and more disturbing pattern of American citizens being caught in the web of China's deeply flawed and inhumane legal system.

You heard from Mark's mother, Ms. Katherine Swidan, through a prepared video statement recorded at her home in Luling, Texas. Her health challenges, sadly compounded by the strain of her son's prolonged detention, prevent her from being here in person. She carries her physical burdens and the emotional weight of this injustice that has continued for many years. For the Swidan family, every day Mark remains in detention is another day of unimaginable anguish.

I became involved with Mark's case just two years ago, and frankly, I was shocked—not only by the details of Mark's unjust detention—recognized by the U.N. Working Group on Arbitrary Detention—but by how little had been done for him up until that point.

Even though Mark is an American citizen who is held under conditions that violate basic international human rights standards, his case has received little attention. There was minimal public awareness, and the focus was scattered and inadequate within government circles.

What I quickly realized, though, was that Mark's case is not isolated. It is just the tip of the iceberg. As I dug deeper into Mark's situation, I was stunned to learn that many other Americans are suffering similar fates in China—imprisoned under dubious circumstances, subjected to an unfair legal process, and cut off from the protection they should be entitled to as American citizens. This problem extends far beyond what is typically covered in human rights reports prepared by the State Department.

Mark and Katherine are grateful that Congress has passed two resolutions on this matter, one in the House and another in the Senate, and of course, this hearing. They appreciate the work done by many in the executive branch and civil society to help in this case. Yet Mark's case and others like it should never last a decade or more. It is unconscionable that Americans are locked up in Communist China for this long. That is a national failure, and we can and must do better.

For years, I have read countless human rights reports funded by U.S. taxpayers and U.S. assistance to NGOs that do essential work on human rights issues in China, Venezuela, Cuba, Iran, Nicaragua, and many other nations. The Global Liberty Alliance has also done that work and continues to do so. However, these reports overwhelmingly focus on the human rights abuse of foreign nationals in faraway lands, not the plight of Americans and other U.S. nationals unjustly detained in these nations.

While advocating for human rights in China is essential, our first responsibility must be protecting our citizens. If we fail to prioritize the safety and freedom of Americans and U.S. legal permanent residents, it becomes much harder to secure their release and undermines our credibility as a global advocate for human rights. We cannot effectively tell others how to address their injustices when we neglect to care for our people.

Chinese diplomats see this perceived lack of focus on our nationals as a weakness, and they exploit it, knowing we are distracted by broader issues. Protecting our people first strengthens our position to hold others accountable for their actions and influence fundamental and individual rights globally.

American citizens like Mr. Swidan should be at the forefront of our human rights and foreign policy agenda. Too often, we see the rights of U.S. citizens sidelined in discussions about broader geopolitical or humanitarian issues. This must change. The U.S. Government, including the State Department, needs to refocus its priorities to ensure that Americans wrongfully detained abroad, especially by hostile regimes like China, receive the highest level of attention and advocacy.

China's legal system is not comparable to our own. It lacks transparency, due process, and the rule of law. These are basic principles that the United States upholds, and we must hold China accountable for its failure to do the same. When

American citizens are detained in China, they are subjected to a system that we, by our own assessments, have deemed abusive and unjust.

Therefore, every American detained in China, regardless of the alleged crimes, must be treated as unjustly detained under U.S. law. We cannot afford to accept Chinese court rulings at face value, especially when we know their legal process is fundamentally broken.

One of the most troubling aspects of this issue is the tendency to equate the plight of Chinese nationals imprisoned in the U.S. with Americans detained in China. Let me be clear—these are not the same. The U.S. legal system, while not perfect, is governed by the rule of law, fairness, and transparency. China's system is arbitrary, politically motivated, and often used as a tool of state control. We must stop treating these two situations as morally or legally equivalent. Americans detained in China deserve better, and we must advocate for them with that understanding firmly in mind.

Additionally, it is time for a more aggressive approach to holding Chinese officials accountable for these unjust detentions. We must impose real consequences on those responsible, including sanctions and visa bans for Chinese diplomats and officials involved in these cases. But sanctions and visa bans are tools, not a policy. We must redouble efforts to make clear what it means to “bring Americans and other U.S. nationals home.” It must be more than slogans, or a routine oversight and reporting issue.

We must also reconsider the privileges regime officials and their families enjoy in the United States. Far too often, we see the family members of these same officials vacationing in the U.S., conducting business here, or even accessing our healthcare system. This is unacceptable.

Access to the United States should be considered a privilege, not a right, and those who are complicit in the unjust detentions of Americans should not be allowed to enjoy the benefits of our country while denying fundamental rights to our citizens. Reciprocity is earned, not freely given.

The U.S. Government must protect its people, both at home and abroad. This means enforcing and perhaps improving current law, and not throwing more money at the challenge. Some political and moral courage can do wonders.

While we continue to champion human rights in China and elsewhere, we must maintain sight of the fact that our citizens are suffering under regimes that do not respect the rule of law. The time for half-measures and cautious diplomacy is over. We must take decisive action to bring Mark Swidan and other Americans home.

In conclusion, Mark's case exemplifies a much larger problem and, perhaps, a crisis. I say probably since we do not have complete information about the scope of the problem. Yet there is no doubt in my mind that the U.S. Government must commit itself fully to protecting its citizens abroad. This has yet to happen in Mark's case and many other cases like it in China, Venezuela, Cuba, and other nations.

We need more transparency about how many Americans are currently detained in China, and we must ensure that all of them are treated as unjustly detained under U.S. law because there is no rule of law in Communist China. This demands a shift in priorities at the State Department and across the government, placing the safety and freedom of American citizens above all else. Our ambassadors and diplomats are on the front lines as America's strongest advocates in these cases. Are they receiving the training and resources they need? What can we improve to support their efforts better?

While the SPEHA office or process is a topic for another hearing, the success or failure of these cases ultimately hinges on political will and moral courage from the highest levels of leadership—the President and Congress. Their commitment is what truly makes a difference, as does listening to people who have worked on these cases a long time, including experts in the private sector. Simply growing the government or throwing more money at the problem is not the answer. Solutions come from effective leadership, not expanding bureaucracy. If the President prioritizes it, good things will happen sooner rather than a decade or more later.

We also need real accountability for the Chinese government, which means imposing sanctions, visa bans, and other measures on those responsible for these injustices. Until we stand firm and demand justice for Americans detained in China, we will continue to see our people used as pawns in an increasingly dangerous geopolitical game.

Thank you for your attention to this critical matter. I look forward to working with the Committee to bring about meaningful change.

SUBMISSION OF BENEDICT ROGERS,
CO-FOUNDER AND TRUSTEE, HONG KONG WATCH

Chairman Smith and Co-chairman Merkley,

I am a writer and human rights activist specializing in Asia, particularly China and Hong Kong as well as Burma/Myanmar and North Korea. I am a co-founder and trustee of Hong Kong Watch, an advisor to the Inter-Parliamentary Alliance on China (IPAC) and the Stop Uyghur Genocide Campaign, co-founder and Deputy Chair of the UK Conservative Party Human Rights Commission and author of many articles and reports on the human rights situation in China, and of a book, “The China Nexus: Thirty Years In and Around the Chinese Communist Party’s Tyranny,” published in 2022.

I warmly welcome the hearing you are holding on unjustly detained Americans in China and thank you for doing so. In June 2023, the UK Conservative Party Human Rights Commission held a hearing which I helped to organize in the British Parliament, chaired by Tim Loughton MP, Chair of the Commission at the time, focused on foreign prisoners detained in China and the abuse, forced labor and denial of human rights which they face. The hearing drew on testimony from Mr. Peter Humphrey, a British citizen detained in prison in the People’s Republic of China (PRC) from 2013–2015, and Mr. Marius Balo, a Romanian citizen imprisoned in the PRC from 2014–2022.

Rather than repeat or quote from the report published by the Conservative Party Human Rights Commission in July 2023, following the Commission’s hearing, I would prefer to attach the report in full—available also on our website here: <https://conservativepartyhumanrightscommission.co.uk/wp-content/uploads/2023/07/CPHRC-Foreign-Prisoners-in-China-briefingFINAL.pdf>.

The report details the complete lack of justice in the PRC’s legal, judicial, and prison system, the complete absence of judicial independence or fair trial, the lack of fair or proper police investigations into alleged crimes, and the widespread use of prison labor, including by foreign prisoners, in the production lines of major international corporations. I hope that the Congressional-Executive Commission on China (CECC) will study this report carefully as part of the hearing and inquiry being held, and that the full report by the Conservative Party Human Rights Commission may be entered into the Congressional Record.

In conclusion, I respectively urge the U.S. Congress and the CECC to call on the government of the United States of America to do more to seek the release of prisoners incarcerated in China who have not undergone fair and transparent trials, and especially to intervene more robustly to protect the human rights of U.S. citizens and other foreign nationals detained in the PRC. In particular, I highlight the cases of three American citizens, David Lin, Kai Li and Mark Swidan serving long sentences in China.

The PRC’s use of arbitrary detention is widespread and systematic, and much more needs to be done to call it out. I wholeheartedly support calls for the use of Magnitsky sanctions against those involved in arbitrarily detaining prisoners, including foreign nationals, and against those within the PRC system involved in torture, mistreatment or other cruel or degrading treatment of prisoners and in the use of forced labor.

I thank you, Chairman Smith and Co-chairman Merkley, for your focus on this urgent and critical topic.



www.conservativepartyhumanrightscommission.co.uk

The Conservative Party Human Rights Commission

“FOREIGN PRISONERS IN CHINA: ABUSE, FORCED LABOUR AND A DENIAL OF HUMAN RIGHTS”

A Briefing

July 2023

Introduction

On 26 June, 2023 the Conservative Party Human Rights Commission held a hearing in Committee Room 5 of the House of Commons, at which two courageous individuals – Peter Humphrey, a British citizen, and Marius Balo, a Romanian – provided testimony regarding their experiences in prison in China. The hearing was chaired by Tim Loughton MP, Chairman of the Conservative Party Human Rights Commission, and in attendance were Baroness Hodgson of Abinger, Benedict Rogers and Luke de Pulford, all members of the Commission, and Lord Alton of Liverpool and Baroness D’Souza as invited Parliamentarians.

The hearing was the latest in the Commission’s work on human rights in China, and follows our extensive inquiries in 2016 and 2020, which led to the publication of our reports titled *The Darkest Moment: The Crackdown on Human Rights in China 2013-2016* and *The Darkness Deepens: The Crackdown on Human Rights in China 2016-2020*, as well as our shorter hearings and briefings on forced organ harvesting and Confucius Institutes.

The Conservative Party Human Rights Commission was established in 2005 by The Rt Hon Liam Fox MP, as Shadow Foreign Secretary at the time, and embraced by his successor, The Rt Hon Lord Hague of Richmond. Tim Loughton MP was appointed as the Commission’s sixth Chairman in 2022, following his predecessors Fiona Bruce MP, The Rt Hon Sir Robert Buckland MP, The Rt Hon Sir Tony Baldry, The Rt Hon Stephen Crabb MP and Sir Gary Streeter MP. The Commission’s focus is on international human rights, and serves to highlight human rights situations and causes around the world, and make recommendations for foreign policy. Our work primarily involves holding inquiries, with oral evidence sessions and calls for written evidence, as well as shorter one-off hearings and events.

This briefing is a summary of the hearing held in Parliament on 26 June 2023. It draws only on the testimonies of Mr Humphrey and Mr Balo, and on media articles provided as further background.

Summary of the two witness testimonies

The two witnesses (detailed biographies available below) both endured several years in China's prisons, for crimes they did not commit. Peter Humphrey, aged 67, a British citizen and a distinguished former foreign correspondent and businessman with 48 years of experience in China, spent two years in prison in China, from 2013-2015, as did his Chinese-born wife, Yu Yingzeng, an American citizen. Marius Balo, a 42 year-old theologian and teacher who had moved to China to teach English, spent a total of eight years in jail in China, from 2014-2022. They are the first and only former foreign prisoners jailed in China to tell their stories publicly.

Their full testimonies are available on the Conservative Party Human Rights Commission's website, www.conservativepartyhumanrightscommission.co.uk, or from the office of Tim Loughton MP. In summary:

Peter Humphrey's case

At the time of his arrest in 2013, Peter Humphrey was running a very successful private sector due diligence and anti-fraud investigation consultancy business called ChinaWhys, which he had established ten years previously, after working for five years in the same field for Kroll and PwC, following a 20-year career as a Reuters journalist. He had extensive experience of due diligence work in China for many multinational corporations, including large manufacturers with complex supply chains, including such global brands as H&M, BMW, Daimler, Unilever, Rolls-Royce Engines, Dow Chemical and Apple. He had been hired by the global pharmaceutical company GSK to investigate a suspected whistleblower in the company, in a case related to allegations of fraud and bribery. Seemingly the suspected whistleblower had high-level political connections in China and discovered she was under investigation, resulting in the Chinese police breaking down the door of Mr Humphrey's Shanghai apartment and arresting him and his wife. The details of their case can be found in several media reports.¹

He was the first prominent member of the foreign business community in China to be imprisoned by Xi Jinping's regime, and the first foreigner to be subjected to a forced televised confession, filmed in a cage and broadcast on Chinese state television. He now works to support, advise and mentor the families of other foreign prisoners in China.

Marius Balo's case

Marius Balo is a 42-year-old Romanian theologian and teacher. In 2010 he moved to China as an English teacher. He then started to work for a Chinese financial services company as a part-time employee. In 2014 he was wrongfully arrested along with all the staff of the company, after it was accused of contract frauds which Marius had known nothing about.

¹ See Financial Times, "I was locked inside a steel cage": Peter Humphrey on his life inside a Chinese prison," 16 February 2018 - <https://www.ft.com/content/db8b9e36-1119-11e8-940e-08320fc2a277?accessToken=>; as well as The Sunday Times, "Inside the Chinese gulag", by Michael Sheridan, 11 July 2015 - <https://www.thetimes.co.uk/article/inside-the-chinese-gulag-mtnt0ng8jibh>; CNN, "Peter Humphrey was once locked up in China. Now he advises other prisoners and their families how to take on Beijing," 13 December 2020 - <https://edition.cnn.com/2020/12/13/asia/peter-humphrey-china-prisoners-intl-hnk/index.html>

He spent the next two years in pre-trial detention, in a 12-sq meter cage with no way to contact anyone in the outside world, and a further six years in the same Shanghai prison as Peter Humphrey. He was released in March 2022.

Prison population

In his testimony to the Commission, Mr Humphrey noted that while “there are no reliable statistics for the number of prisoners in China because China obfuscates the situation,” nevertheless he estimates the prison population to be approximately 5 million people, in addition to the several million interned in prison camps in Xinjiang and Tibet. He estimates the total number of foreign prisoners in China to be approximately 5,000, a significant proportion of whom are Africans and China-born foreign citizens.

“The UK government has not disclosed how many of our citizens are held in Chinese facilities,” he added – although a subsequent Parliamentary Question tabled by The Rt Hon Sir Iain Duncan Smith MP (191244) on 27 June 2023 resulted in the Minister of State at the Foreign, Commonwealth and Development Office replying as follows: “On the 1st June 2023, the FCDO was providing on-going consular assistance to 17 British citizens detained in China. On the 1st June 2023, the FCDO was providing on-going consular assistance to 20 British citizens detained in Hong Kong. It is not possible to provide further details on individual cases.”

China’s legal, judicial and prison system

China’s legal, judicial and prison system, according to Mr Humphrey, “act as an organic whole to exercise repression, resulting in systematic abuse on a massive scale.” There is no rule of law, but instead rule by law, with no independent judiciary. “Police, prosecutors and judges are all part of the same family – the Communist Party. And lawyers are compelled to obey the Communist Party.”

Crucially, according to Mr Humphrey, “police do not conduct investigations with any real detective work or forensic procedures”. Instead, they rely on extracting confessions from detainees who are “interrogated day by day locked inside a cage”, and by extracting so-called witness statements which are often coerced. No contradictory evidence or cross-examination of witnesses is permitted, prosecution witnesses are only required to provide written testimonials and are not required to appear in person, no defence witnesses are called, no defence evidence is presented and defence counsel are prevented from conducting genuine, vigorous defence. As a result, according to Mr Humphrey, 99.9% of prosecutions result in convictions and sentences, and 99.9% of appeals are rejected.

“Among the millions of prisoners in the system, not a single prisoner has had a fair and transparent trial. Not a single one,” Mr Humphrey told the Commission. “Sentences tend to be reckless, inconsistent and disproportionate to any offence. So the entire system is arbitrary and subject to the whims of Communist Party officials. The system works in favour of anybody with connections to use the law to bash people they dislike.”

Mr Balo agreed. “Justice in China is always based on someone’s whims – the Party’s whims, expressed through its foot soldiers,” he told the Commission.

Televised forced and false confessions are broadcast on the main state-owned outlets, CCTV and CGTN. Mr Humphrey himself was forced to make two televised forced confessions from a steel cage in the detention centre, which were then broadcast worldwide. After his release, he successfully filed a complaint with Ofcom in the UK, resulting in Ofcom imposing a fine on CGTN and withdrawing its UK broadcast licence.²

Pre-trial detention centres do not, according to Mr Humphrey, function like pre-trial custody regimes elsewhere. Instead they are “penal regimes from day one, even when a detainee has not been indicted, tried and convicted of any crime”. Conditions are notably harsh, and have grown worse in recent years, according to the evidence Mr Humphrey has gathered from interviews with released prisoners who, he said, have reported “unspeakable woes”. These detention centres, he added, “are designed to crush the human spirit with the result that prisoners sometimes falsely confess to a crime”. In recent years under Xi Jinping’s dictatorship, basic rights to food rations, exercise, family telephone calls, letter writing and the receipt of reading materials have been reduced, and sentence reductions have been impossible to obtain without submitting to coerced labour.

Forced prison labour

Both Mr Humphrey and Mr Balo described first hand experience of forced prison labour. “China’s entire prison system holding many millions of prisoners is in fact a gigantic, self-perpetuating commercial enterprise which brings profits to the state, income to prison officers, and funds prison operations,” Mr Humphrey said. “Every prison imposes forced production labour on its prisoners.”³

Crucially, this forced prison labour is used to produce products for global supply chains and global multinational brands. “Prison officers are employed as labour supervisors, marketing and sales managers, and get bonuses and perks for high production output,” according to Mr Humphrey. “Officers go out to win orders and contracts from commercial manufacturers. Every prison has incorporated one or more companies to hold this business.”

Prison campuses contain entire factories, according to Mr Humphrey and Mr Balo, producing a range of goods including sports shoes, apparel and daily hardware items, to electronic products such as keyboards and appliances. Prisoners work up to 12 hours a day, six days a week. “The seventh day is spent on writing thought reports and on ideological study,” Mr Humphrey said. “Accidents are frequent in the factories. I met many Chinese prisoners in the prison hospital with broken bones caused by factory accidents.”

According to Mr Balo, “Chinese inmates would wake up at 6am and soon afterwards be marched out into the factories. The prison compound was gigantic. Only a fraction of it was made up of living quarters. The rest of the space was made up of factories. They got marched out every morning as we watched from our windows, with the sick and the elderly being piled

² BBC, “Chinese TV channel breached rules with ‘forced confession,’” 6 July 2020 - <https://www.bbc.co.uk/news/entertainment-arts-53308057>

³ The Diplomat, “Forced prison labor in China: hiding in plain sight,” by Peter Humphrey, 25 January 2022 - <https://thediplomat.com/2022/01/forced-prison-labor-in-china-hiding-in-plain-sight>

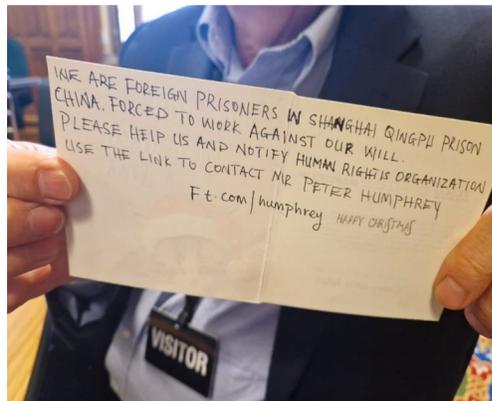
one on top of the other in a rudimentary cart and pulled behind the marchers. Everyone had to go. No one was allowed to stay behind. They had to sing 'The Chinese Communist Party is my mother' as they marched."

Foreign prisoners in most prisons in China do not perform heavy factory labour, according to Mr Humphrey, but instead are required to perform manual tasks requiring no machinery, in a work room in their own cell block. In Shanghai's Qingpu Prison where Mr Humphrey and Mr Balo were held, foreign prisoners worked five days a week, although in some prisons African prisoners are forced to work the same hours as Chinese prisoners.

"The typical work of foreign prisoners includes making gift bags for retail chains (including China's biggest duty-free shopping chain), making packaging materials, packing items such as Christmas cards, plastic tags for retail display racks, keyboards, and breakfast oatmeal sachets," according to Mr Humphrey. "While a prisoner in Qingpu Prison, I personally witnessed items being made or packaged for labels including H&M, C&A and 3M. Other prisoners I have interviewed after release more recently listed many other brands owned by companies in a number of countries being made in Qingpu Prison. These practices are repeated in all Chinese prisons." In recent years, Mr Humphrey added, he has received reports relating to the prison labour production of pregnancy test kits and personal protective equipment (PPE) such as face-masks sold in Europe during the Covid-19 pandemic.

Mr Balo described being required to glue handles onto gift bags all day. "Your nose was inside that glue all day, with no mask to protect you," he said. In the hearing, he presented the Commission with an example of a paper gift bag which he had been required to make in prison and had smuggled out of prison when he was released.

"We had to work in the same room that we ate. Chunks of meat were awarded to those who completed their labour quotas in record time, while the rest of us watched," said Mr Balo. "Food was always used as an instrument of control. If you rat out on your buddies or chose to participate in propaganda, you would receive a piece of meat while the rest of us got grass and rice."



In 2019 a little 8 year-old girl in London opened a box of Tesco Christmas cards which she had bought, in order to write and send them to her friends. In one card she found a message had already been written. It read: "We are foreign prisoners in Shanghai Qingpu Prison, China. Forced to work against our will. Please help us and notify human rights organisation. Use the link to contact Mr Peter Humphrey – ft.com/humphrey." The girl's father immediately made contact with Mr

Humphrey, who then wrote extensively about the packaging of Tesco Christmas cards and Quaker oats⁴ by foreign prisoners in China in *The Sunday Times*.⁵ Tesco immediately responded by halting production of these cards in China.⁶

Mr Humphrey presented the original card and message to the Commission during the hearing.

“Within this system, Chinese prisons make huge profits for the government. There is no incentive to release prisoners early. There is every incentive to keep prisoners in prison for as long as possible to squeeze more labour out of them. And there is an incentive to grow the prison population,” said Mr Humphrey.

Due diligence

Corporate due diligence in China has always been challenging, but has been made impossible with the introduction of a new anti-espionage law which took effect on 1 July 2023. That law effectively categorises due diligence investigations as spying. According to Mr Humphrey, “now, many activities that previously might have been treated as privacy matters have been moved under the spying law and could result in life sentences. In these circumstances, multinationals cannot satisfactorily check whether a Chinese company is using prison labour or other illegal unsocial labour. The only way to avoid this risk is not to manufacture in China at all. Anybody who says you can avoid it is either lying or fantasising.”

Multinational corporations, according to Mr Humphrey, very often have no knowledge of what is going on at the bottom of their “complex and opaque supply chain”, including the use of prison labour or child labour. For example, he said, “a fashion company may commission a Chinese factory to make the trimmings for a pair of trousers. But that Chinese factory contracts another factory to do the zippers, and another one to do the buttons, and another one to do packaging. The only way that companies become aware of this prison labour is when a prisoner manages to smuggle out a whistle-blowing message and it gets to the media.”

Psychological torture, mistreatment and denial of health care

When Marius Balo was arrested, he was tied up in what is known as a “tiger chair” and interrogated for 24 hours. In pre-trial detention, for two years he was held in a 12 square metre cage with 10-12 other prisoners, none of whom spoke English. He was never allowed out of the cage, other than for questioning.

“I was never tortured physically – everything was psychological torture,” Mr Balo told the Commission. “I could not contact anyone. I could never see daylight, for the two years that I

⁴ The Sunday Times, “China’s prison slaves forced to pack Quaker oats,” by Peter Humphrey, 19 January 2020 - <https://www.thetimes.co.uk/article/chinas-prison-slaves-forced-to-pack-quaker-oats-mrbcs8sgm>

⁵ The Sunday Times, “Sawdust, burgers and borscht – Peter Humphrey’s Christmas in a Chinese prison,” by Peter Humphrey, 22 December 2019 - <https://www.thetimes.co.uk/article/sawdust-burgers-and-borscht-peter-humphreys-christmas-in-a-chinese-prison-7q0rnsrnk>

⁶ The Sunday Times, “Tesco halts sale of Christmas cards made in China ‘slave’ jail,” 23 December 2019 - <https://www.thetimes.co.uk/article/tesco-halts-sale-of-christmas-cards-made-in-china-slave-jail-znmmp9c6f>

was in the cage. When I went to court, they shoved a bag over my head. Some prisoners endure those conditions for as long as 4-5 years before sentencing.”

Mr Balo described waking up each day at 6am and being forced to observe the other 10-12 prisoners in the same cage defecating in the hole in the corner of the room that was the only toilet available. At the same time, the television above the hole was broadcasting Chinese Communist Party propaganda and patriotic songs which prisoners were required to watch. It was, he said, an “indoctrination programme”.

Calls from the detention centre were not allowed at all, and calls from Qingpu Prison were severely restricted, as was medical care. “It was nearly impossible to receive medical attention if you were sick,” Mr Balo said. “The hardest thing to come by was medical attention. The prison medic would only receive foreign inmates on Tuesdays. It didn’t matter that you were hurting on Wednesday. If you experienced pain, any kind of pain, you had to sign up on a list and wait sometimes for an entire week. I witnessed two men get cancer inside the prison and both were left to die without treatment. When the pain became unbearable, they received palliative medicine. Nothing else.”

One Canadian prisoner of Chinese origin, Mr Steve Lien, suffering from non-Hodgkins Lymphoma, was asked to pay for hospitalisation and chemotherapy, according to Mr Balo. “His family wired tens of thousands of dollars into the prison’s accounts, but he never received any specific cancer treatment except a tube of oxygen when he could hardly breathe anymore. I saw him a few days before he died. Then they took him away. His family was given a small bottle of ashes.”

Another prisoner, a Colombian, had already served 15 years of a life sentence (which was later commuted to 18 years), when he developed cancer. For several months he requested hospital treatment and tests, but was refused. “He finally went on hunger strike and after a week they finally took him to hospital,” Mr Balo told the Commission. “He was diagnosed with multiple cancerous tumours. They told him he could not receive an operation. He received no other cancer treatment except for painkillers. He died nine months later. He repeatedly asked for medical parole. He had only a few years left on his sentence. But he was cynically ignored until the very end. Then they told him he was too sick to be accepted on board the aeroplane. He died alone, a pack of bones, on a cold hospital bed, a few days later. These are only two stories out of countless examples of injustice that I have encountered there.”

According to Mr Humphrey, “the Chinese prison system weaponises prisoners’ health and medical care as an instrument to extort written confessions to crime, refusing to provide needed medical attention to prisoners who refuse to admit guilt.” He knows this from first-hand personal experience.

Prior to his arrest and imprisonment, Mr Humphrey had suspected prostate cancer. “By the time of my release after two years, I had developed advanced prostate cancer and then had to battle it for five years. I am lucky to be still alive,” he told the Commission.

“This practice is the norm in Chinese prisons. Medical treatment is also withheld simply to avoid spending money on it. I learned of several Chinese deaths inside the prison from

untreated cancers. And since my release, a number of prisoners have died soon after their own release, and at least two foreign prisoners in my cell block have died from cancer.”

Conclusions and Recommendations

The Conservative Party Human Rights Commission agrees with Peter Humphrey’s conclusion that “in their aggregate, the harsh conditions in China’s pre-trial detention facilities and prisons add up to torture”.

China’s judicial and prison system violates international norms and treaties, including the United Nations conventions on torture and on minimum standards for the treatment of prisoners.

The evidence that forced prison labour products from China are in our shops and available to consumers without their knowledge is profoundly concerning.

Often we focus on the human rights violations perpetrated against political prisoners and prisoners of conscience: dissidents and religious practitioners from across China, Xinjiang, Tibet and Hong Kong. But as Mr Humphrey noted, in China it is clear that “not only political prisoners are a human rights matter – prisoners held for alleged common crimes are also victims of human rights abuse.”

Based on the evidence presented in this hearing, the Conservative Party Human Rights Commission makes the following recommendations:

1. The United Kingdom government should abandon its practice of non-intervention in judicial cases in China, and in every case of a British citizen being detained in China, His Majesty’s Government should challenge the processes, practices and lack of transparency. It has a duty to do more than simply seek consular access, providing visits, delivering correspondence, books and other support, vital though that undoubtedly is, and instead actively advocate for British citizens in jail in China;
2. The United Kingdom should impose mandatory due diligence requirements for all UK companies, requiring those who manufacture in China to thoroughly and comprehensively investigate their supply chains, on a regular basis, to ensure there is no prison labour in the chain. If they are unable to do so due to the barriers erected to proper due diligence by the Chinese State, UK companies should cease manufacturing in China;
3. The United Kingdom should introduce and enforce a labelling system or ‘health warning’ on products made in China, similar to the labels on cigarettes, informing the consumer that these products might have been made by forced labour.

Witness biographies**1. Peter Humphrey**

Peter Humphrey is a 67-year-old British citizen from Surrey with 48 years of experience with China. He holds a first class honours degree in Sinology from Durham University and is an external research associate of Harvard University's Fairbank Center for Chinese Studies. He spent two decades as a foreign correspondent both in communist Eastern Europe (as it was at the time) and the China region, mostly with Reuters. He then spent 15 years as an anti-fraud and due diligence consultant with Kroll, PwC, and, for the final ten years, running his own consultancy, ChinaWhys. In July 2013 he and his wife were arrested and imprisoned on charges of illegal information gathering after conducting an investigation for GSK. They spent two years in Chinese prisons during which time Peter developed advanced prostate cancer as medical treatment was deliberately withheld in a bid to coerce a false confession. He was the first prominent member of the foreign business community in China to be imprisoned by the Xi Jinping regime and the case attracted extensive media coverage. He was also the first foreigner to be paraded in a cage on Chinese television in a notorious broadcast of a false and forced TV confession.

Since his release Peter has fought his cancer and many other non-medical battles. He published a viral, harrowing account of his ordeal in the Financial Times Weekend Magazine in 2018. He won an out of court settlement from his former client in 2022 after six years of litigation. He fought a campaign against Chinese TV which resulted in the regulator Ofcom removing CGTN's UK broadcast licence. He wrote a series of exclusive investigation reports for the Sunday Times around Christmas 2019 exposing the use of forced labour among foreign prisoners in China, centred upon the packaging of Tesco Christmas cards and Quaker oats by foreign prisoners. He filed a complaint to the Chinese government after his release, exposing those responsible for his arbitrary imprisonment, which has been ignored. Peter is today a mentor to many families suffering similar ordeals. He has built his own prisoner support and intelligence network, which includes released prisoners, and Marius Balo has been one of his mentees. Peter has also advised on many documentaries on China in recent years and is often interviewed by the media for his insights into justice and imprisonment in China.

2. Marius Balo

Marius Balo is a 42-year-old Romanian theologian and teacher. He graduated from St. Vladimir's Orthodox Theological Seminary in Yonkers, New York, and holds a Master of Divinity degree. He has worked in the field of peace building and conflict transformation as a project coordinator for PATRIR (Peace Action Training and Research Institute of Romania). He has also taught theology and was a talk-show host in his hometown, Cluj-Napoca. In 2010 he decided to move to China and took up a job as an English teacher. In 2014 he was wrongfully arrested along with all the staff of a Chinese company for whom he worked as a minor part-time employee. The company was accused of contract frauds which Marius had known nothing about.

He spent the next two years in a 12-sq meter cage with no way to contact anyone in the outside world, and a further six years in the same Shanghai prison as Peter Humphrey. He was released in March 2022. Immediately upon his release he set out, on foot, on a 2922-km

pilgrimage around Romania, to spotlight the injustice done to him and to other victims of Communism, by walking 1 km for each day of his wrongful imprisonment. Eight years amounts to 2,922 days. He completed his pilgrimage on December 1, Romania's national day. He has just written a novel about his harrowing experience in China's jails. He is collaborating with Peter on a number of projects to spotlight injustice and prison conditions in China.

SUBMISSION OF CEDRIC WITEK

Dear Mr. Chairman, dear members of this Commission,

I make this statement at the suggestion of Peter Humphrey, a friend and former colleague also testifying to this Commission. I am a French national and a corporate-crime investigator of 25 years' standing with a long experience of Asia and especially China, where I lived and worked for many years investigating all manner of wrongdoing including fraud, corruption and human-rights abuses both on behalf of private clients and pro bono. I am fluent in the Chinese language.

I write this in my capacity of having helped Peter advocate for David McMahon, an American citizen imprisoned in China. Peter first contacted me about this in the fall of 2016, when he first told me of McMahon and his conviction in Shanghai three years previously for the alleged sexual abuse of children at the French School of Shanghai.

At the time, Peter asked me as a personal favor to review materials relating to McMahon's conviction in Shanghai and provide analysis and input on any potential actions that might help raise awareness of what Peter believed was McMahon's wrongful imprisonment. Repulsed by the routine Chinese-regime practice of imprisoning the innocent, I agreed to do this.

In doing so I came to believe—as Peter himself did—that McMahon was innocent of the charges levied against him, which seemed to me poorly supported by questionable allegations and evidence gathered in a sloppy and partial manner. My belief in McMahon's innocence has only been strengthened by his behavior ever since: despite spending over a decade in the hell of the Chinese prison system, he has always refused to make a confession even though it is the surest way to leniency and even release.

But I also became convinced that McMahon was denied due process at every stage, and perhaps even deliberately framed by parents who were utterly convinced of his guilt, acting in collaboration with French government authorities. The materials I reviewed suggested deliberate collusion between the families accusing McMahon of sexual abuse in making sure he was convicted, for example, to the extent of arranging a so-called "secret meeting" to plot a legal offensive against McMahon and even contacting the FBI.

What also struck me was the sheer amount of effort that seemed to have been put in by the French consular authorities in Shanghai to help convict David McMahon. Not only did the French Consul-General in Shanghai get involved, but so did the Ambassador as well as the Agency for French Schooling Abroad ("AEFE"), a French government organ under supervision of the French Ministry of Foreign Affairs. I understood from the materials given to me that French consular officials went as far as to threaten staff at the French School of Shanghai, including its principal, into withdrawing their support for McMahon and withholding statements that might have exonerated him.

This seemed to me unusual as well as highly improper. The consular authorities of a third country have of course no business actively prejudging the merits of a criminal case on Chinese soil, much less threatening witnesses or otherwise tampering with the investigation and influencing the outcome of the case.

What I believe really happened based on the materials at my disposal at the time is that the parents of the allegedly abused children, already deeply traumatized by their children's prior abuse at the hands of convicted sex offender Hector Orjuela at the same school the previous year and acting under the mistaken belief that McMahon was a friend of his, overreacted to their children's routine manifestations of affection to McMahon, a common reaction in parents of victims of sexual abuse. The parents then likely raised the matter with the school in terms brooking no opposition, and probably even threatened to go public.

The French School of Shanghai, like most French international schools, was affiliated to the French Ministry of Foreign Affairs and received partial funding from the French government. The reputation of French schools abroad is generally seen to be tied to that of the French state itself. It is clear that a second child abuse scandal at the school in less than a year would not have served French interests as the Consulate understood them.

So I believe the French Consulate may have set out deliberately to build a case against McMahon and then delivered an entirely prejudged and prejudiced case to the Chinese government, which would have been only too eager to take receipt of a pre-packaged foreign scapegoat and be seen as a resolute enforcer of justice.

Needless to say, the Chinese regime's actual record in enforcing justice is wholly laughable. The overriding objective of the prosecution process in China is to vindicate its judiciary, which is controlled by the ruling Chinese Communist Party and operates entirely at the discretion of the executive. Nearly a hundred percent of the

cases end in conviction and criminal lawyers are largely there for window-dressing, deliberately denied access to the materials necessary to mount a proper defense. No conviction in China is sound.

I believe that McMahon's accusers, some animated by a sincere belief in his guilt and others by a simple urge to head off a looming scandal, took full advantage of this fact. If that is indeed what happened, then I am deeply ashamed that the authorities of my country colluded in this dishonorable outcome. France was birthed in the struggle against despotism and then gave the world the first declaration of human rights. True French values—*my* values—prize the life of an innocent man above the reputation of an institution, let alone some warped conception of national prestige that would involve sandbagging the powerless in cahoots with a heinous dictatorship which still today harvests the organs of political prisoners and sells them to the highest bidder.

In conclusion, I am making this statement so that it might help a man, and others like him, who was denied the most basic due process and then left to rot in a prison manned by one of the world's worst autocracies. Yet it is only fair to recognize that for many years now and despite the always praiseworthy efforts of certain virtuous individuals, the record of Western governments as a whole in standing up for the rights of their citizens wrongfully imprisoned by dictatorial regimes has been poor. Beset by what the retired Australian general Mick Ryan recently called "strategic timidity," a polite term for cowardice, Western governments in the past generation have preferred to avoid awkwardness in their relations with outright tyrannies.

In rolling over for those despotic regimes in the past and taking their spurious convictions of our citizens at face value by default, I believe we in the democratic West have weakened ourselves and emulated the dictatorships. The most essential role of the state is to protect its citizens, and the most fundamental mark of a democracy is that it honors the inherent dignity of the individual. Unlike the tyrants of Russia and China who see their own people as nothing more than faceless kindling to be heaped on the bonfire of their twisted ambitions, democracies recognize that the individual is endowed with unique and unquantifiable worth. We recognize that the rights of the individual, even and indeed especially when naked against the lofty designs of the mighty and the hulking machinery of the state, are paramount.

Yet as things stand, unless a Western victim of the Chinese regime happens to be famous or connected, they stand little chance of their government rallying forcefully behind them. They too become faceless kindling. And it then befalls their distraught friends and relatives—ordinary people with ordinary lives and means, some of them ill, elderly or barely adults—to fight long, grim and lonely campaigns only to face the cold, slippery marble of their own government, at times so remote and Olympian that it can feel little different from the heartless mandarinat of Communist China. Meanwhile the months and years pass. And the victims and their loved ones can hardly be blamed for emerging from the ordeal as embittered about their own country as they are about the thuggish regime that mauled them in the first place. Being wantonly attacked is bad enough. Being left to bleed by the roadside is a moral injury.

I write this in humble hope for change. Many thanks to all of you for reading my statement and for choosing to work for this change.

SUBMISSION OF THE FOLEY FOUNDATION

EXECUTIVE SUMMARY

China is currently holding the most wrongfully detained Americans of any other country.¹ A substantial portion of this number is driven by China's use of exit bans. The length of detention is concerning, as the Americans wrongfully detained in China today have been held for, on average, more than 8 years. Other western countries have also struggled in recent years to address China's use of hostage diplomacy.² The United States has traditionally relied on diplomatic engagement to secure the release of Americans from China.³ Given the number of Americans detained in China, the length of prison sentences, and China's apparent willingness to engage in hostage diplomacy, more creative and coordinated international approaches are needed to better counter this threat.

THE NUMBER OF WRONGFULLY DETAINED AMERICANS

The number of known Americans wrongfully detained in China has climbed over the last 10 years. In 2014, six Americans were wrongfully detained by China.⁴ That number grew to eight Americans in 2016, reaching a peak in 2019, with 20 Americans assessed as wrongfully detained by the Foley Foundation. Since 2022, we have not seen new cases of Americans being wrongfully detained by China; however, until this past weekend, releases have also stagnated.⁵

The U.S. Department of State classifies Americans as wrongfully detained in China: Mark Swidan (detained since November 2012) and Kai Li (detained since September 2016). Pastor David Lin, held 18 years, was recently released on Sept. 15 of this year. The Foley Foundation assesses that an additional nine Americans meet the wrongful detention criteria as specified in the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act based on the publicly available information.⁶ This number still likely underestimates the extent of Americans wrongfully detained in China, as the Foley Foundation monitors several other cases that might, with additional evidence, meet the criteria for wrongful detention. Further complicating the problem is China's refusal to recognize dual-national citizens. The State Department warns that dual nationals may have their access to consular services denied by China, limiting the assistance the U.S. Government is able to provide.⁷ The problem of accurately reporting the number of Americans detained in China is exacerbated by underreporting, pressure on families to not come forward because of retaliation concerns, and China's use of exit bans.⁸

¹Loertscher, C. (2024). Bringing Americans Home 2024: A non-governmental assessment of U.S. hostage policy, family engagement, and the hostage and wrongful detainee landscape. *James W. Foley Legacy Foundation*. <https://jamesfoleyfoundation.org/hostage-advocacy/hostage-report/>.

²Hostage diplomacy is defined as the use of a country's criminal justice system to hold foreigners hostage. Gilbert, D. (2023, September 22). Biden's hostage diplomacy, explained. *Center for Strategic & International Studies*. <https://www.csis.org/analysis/bidens-hostage-diplomacy-explained>.

³Loertscher, C. (2024). Bringing Americans Home 2024: A non-governmental assessment of U.S. hostage policy, family engagement, and the hostage and wrongful detainee landscape. *James W. Foley Legacy Foundation*. <https://jamesfoleyfoundation.org/hostage-advocacy/hostage-report/>.

⁴Based on a database maintained by the James W. Foley Legacy Foundation.

⁵Loertscher, C. (2024). Bringing Americans Home 2024: A non-governmental assessment of U.S. hostage policy, family engagement, and the hostage and wrongful detainee landscape. *James W. Foley Legacy Foundation*. <https://jamesfoleyfoundation.org/hostage-advocacy/hostage-report/>.

⁶The Foley Foundation includes three individuals placed on exit bans in our count.

⁷State Department. (2024, April 12). *China travel advisory*. <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/china-travel-advisory.html>.

⁸Loertscher, C. (2024). Bringing Americans Home 2024: A non-governmental assessment of U.S. hostage policy, family engagement, and the hostage and wrongful detainee landscape. *James W. Foley Legacy Foundation*. <https://jamesfoleyfoundation.org/hostage-advocacy/hostage-report/>.

CHINA'S USE OF EXIT BANS

China leverages exit bans to coerce cooperation with government investigations, pressure family members to return from abroad, settle civil disputes, and exert political leverage on foreign governments.⁹ In its investigation of China's use of exit bans, the Associated Press noted that individuals do not receive an official notification that they have been placed under a ban.¹⁰ Additionally, exit bans do not have clearly defined time periods, nor a method for remediation. Because China does not provide an official count of the exit bans in use, it is difficult to ascertain an exact number. China President Xi Jinping has expanded the authorities of and use of exit bans.¹¹ A perception that China is increasing its use of exit bans is shared by diplomats from multiple countries.¹²

AN INTERNATIONAL PROBLEM

The United States is not unique in its struggle to secure the release of its citizens from China. In recent years, Australia and Canada have also seen their own citizens used as political pawns to secure concessions favored by the Chinese Communist Party (e.g., the release of Huawei Chief Financial Officer Meng Wanzhou).^{13 14 15} National security and foreign policy experts warn of China's willingness to flout international norms and engage in hostage diplomacy to achieve its aims.^{16 17} Given this international threat, more creative thinking and tools are needed to counter it.

RECOMMENDATIONS

The United States needs a robust strategy, using multiple tools, to secure the release of Americans held in China. This strategy should include cooperation with countries, as other nations are also working to secure the release of their own citizens from China. Additionally, after the 2020 U.S. Presidential election, Dui Hua, a nonprofit focused on political prisoners in China, noted that "the Chinese government often makes gestures when a new American president is elected."¹⁸ Dui Hua encouraged then President-elect Joe Biden to use his election to request the release of Mark Swidan.¹⁹ The 2024 Presidential election represents another possible opportunity for the president-elect to request the release of Americans wrongfully detained in China as an act of goodwill.

Diplomatic engagement is still needed, and the State Department should use the full range of its tools, including facilitating humanitarian releases and prisoner exchanges, as appropriate. Finally, the United States should evaluate how it can better leverage the authorities and capabilities of Executive Order 14078, Bolstering

⁹Department of State. (2024, April 12). *China travel advisory*. <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/china-travel-advisory.html>.

¹⁰Kinetz, E. (2020, May 5). 'No remedy, no rights': China blocks foreigners from leaving. *Associated Press*. <https://apnews.com/article/shanghai-suburbs-international-law-only-on-ap-china-5d59ce2a8442d6511cb9e7d8a3494679>.

¹¹Smith, A., & Austin, H. (2023, July 27). China's use of exit bans leaves Americans at the risk of being arbitrarily detained. *NBC News*. <https://www.nbcnews.com/news/world/china-exit-bans-detentions-travelers-businesses-xi-jinping-covid-rcna95264>.

¹²Kinetz, E. (2020, May 5). 'No remedy, no rights': China blocks foreigners from leaving. *Associated Press*. <https://apnews.com/article/shanghai-suburbs-international-law-only-on-ap-china-5d59ce2a8442d6511cb9e7d8a3494679>.

¹³Needham, K. and Tian Y. K. (2023, October 11). Australian journalist Cheng Lei back home after China release. *Reuters*. <https://www.reuters.com/world/australian-journalist-detained-by-china-arrives-home-2023-10-11/>.

¹⁴McGuirk, R. (2024, February 21). China-born Australian democracy blogger won't appeal suspended Chinese death sentence. *Associated Press*. <https://apnews.com/article/yang-hengjun-china-australia-espionage-d8ebca29783d0eae30a99b55f11c5b61>.

¹⁵Slisco, A. (2021, September 24). Canadian diplomats detained in China since 2018 finally returning home, Trudeau says. *Newsweek*. <https://www.newsweek.com/canadian-diplomats-detained-china-since-2018-finally-returning-home-trudeau-says-1632670>.

¹⁶Cecco, L. and Davidson, H. (2021, September 29). Meng and the Michaels: Why China's embrace of hostage diplomacy is a warning to other nations. *The Guardian*. <https://www.theguardian.com/world/2021/sep/29/meng-wanzhou-michael-kovrig-michael-spavor-china-analysis>.

¹⁷Klass, A. (2020, July 9). Michael Kovrig, Michael Spavor, and China's history of hostage diplomacy. *The China Project*. <https://thechinaproject.com/2020/07/09/michael-kovrig-michael-spavor-and-chinas-history-of-hostage-diplomacy/>.

¹⁸Dui Hua. (2020, November 30). American citizen Mark Swidan: Eight years in Jiangmen detention center. *Dui Hua*. <https://duihua.org/american-citizen-mark-swidan-eight-years-in-jiangmen-detention-center/>.

¹⁹Dui Hua. (2020, November 30). American citizen Mark Swidan: Eight years in Jiangmen detention center. *Dui Hua*. <https://duihua.org/american-citizen-mark-swidan-eight-years-in-jiangmen-detention-center/>.

Efforts to Bring Hostages and Wrongfully Detained United States Nationals Home (e.g., use of designations, and sanctions against foreign government officials directly or indirectly involved with wrongful detentions) against China.²⁰

²⁰Loertscher, C. (2024). Bringing Americans Home 2024: A non-governmental assessment of U.S. hostage policy, family engagement, and the hostage and wrongful detainee landscape. *James W. Foley Legacy Foundation*. <https://jamesfoleyfoundation.org/hostage-advocacy/hostage-report/>.

SUBMISSION OF CYNTHIA SUN

Thank you to Chairman Smith, Co-Chairman Merkley, and distinguished members of the Commission, for holding this hearing. Today, I am bringing before you the cases of four U.S. citizens whose families are jailed or under house arrest in China.

In July 1999, the Chinese Communist Party (CCP) launched a violent campaign to persecute Falun Gong, also known as Falun Dafa. The ancient spiritual practice in the Buddhist tradition combines meditation and gentle exercises (similar to yoga or tai chi) with a moral philosophy centered on the tenets of Truthfulness, Compassion, and Tolerance.

A quarter century later, Falun Gong practitioners remain a large proportion of prisoners of conscience in China. Included among them are multiple relatives of U.S. citizens and residents. These individuals have been unjustly imprisoned in China or barred from leaving the country, simply for practicing Falun Gong, sharing information about it, or exposing the rights abuses faced by others.

Given the tight censorship and brutality with which Chinese security agents treat Falun Gong practitioners, their loved ones in the United States are often unable to receive timely updates on their condition and are fearful they are being tortured—or even killed—at any moment. Indeed, since 2019, at least two Falun Gong practitioners jailed in China with family living in the United States have died in police custody with signs of abuse (Ms. Meng Hong from Heilongjiang whose daughter lives in California and Ms. Ji Yunzhi from Inner Mongolia whose son resides in New York).

The following four U.S. citizens reside in the United States but suffer from the trauma of the CCP's persecution by being separated from loved ones and fearing for their jailed relatives' well-being.

New York: Lydia and Steven Wang, a brother and sister who are both U.S. citizens, live with their families in New York, where Steven has worked for Shen Yun Performing Arts as a principal dancer since 2008. Their mother, Ms. Liu Aihua, was sentenced in Hunan Province to 4 years in prison on March 10, 2023. She was last seen at the No. 4 Detention Center of Changsha City. Ms. Liu was likely sentenced for distributing informational pamphlets to raise awareness about the persecution, according to family. It is unknown whether she is facing torture in prison. She has yet to meet her grandchildren in New York. Lydia and Steven's father Wang Guanghui passed away in September 2009 after a lengthy detention in China for practicing Falun Gong.

In a 2021 interview, Steven recalled visiting his parents in prison during a prior detention before he left China for the United States. "Every time we went to visit them, they looked like they'd been starved," he said. "They never told me what it was like in there. They only told me they were doing fine. But you can probably imagine—you could tell from their withered faces that they'd been tortured."

Lydia Wang previously testified before a congressional briefing in 2023. Ms. Liu Aihua's case is included in the USCIRF prisoner database. For more details, see a page dedicated to her case on the Falun Dafa Information Center website.

Texas: Grace Chen, a 19-year-old U.S. Army medic and naturalized citizen. Her parents, Mr. Yang Chen and Ms. Zhimin Cao, were sentenced in Hunan Province in 2020 for an unknown length of time. According to Grace, the extended family has been unable to reach the couple in detention since their arrest. Lawyers hired by the family were pressured by their law firms or provincial justice bureaus to withdraw from the case and were stonewalled by the Liuyang Police Department and the Liuyang Procuratorate from helping the couple. Mr. Chen is currently imprisoned at Wangling Prison; Mrs. Cao is at Hunan Province Women's Prison.

Grace Chen previously spoke on a panel at the International Religious Freedom Summit. Her parents' case was also covered by the Jubilee Campaign. For more details, see a page dedicated to their case on the Falun Dafa Information Center website.

Texas/New York: Danielle Wang, a civil engineer from Texas and New York and a U.S. citizen. Her father, Mr. Wang Zhiwen, was sentenced on December 27, 1999 to 16 years in a show trial broadcasted live through an international CNN newscast. Prior to the CCP's launch of the persecution, Mr. Wang had been a volunteer coordinator in Beijing, organizing meditation practice sites for teaching Falun Gong's exercises. After his release in 2016, Danielle and her husband traveled to China to escort her father to the United States. But CCP agents surrounded the U.S. Consulate in Guangzhou and followed them, taking photos and even monitoring their movement inside their hotel. Before the trio could board a ferry from Guangdong

to Hong Kong, Chinese customs officers cut up his passport and rendered it useless. Wang remains under house arrest today.

Danielle Wang previously testified before a congressional hearing in 2013 and a CECC hearing in 2016. Her father's case was also covered by the USCIRF, Lantos Commission, ChinaAid, and the Houston Chronicle. For more details, visit her interview with Friends of Falun Gong or a short documentary about her story on Faluninfo TV.

RECOMMENDATIONS

It is vital that the U.S. Government do more to free these prisoners of conscience. Doing so would reunite families of U.S. citizens across multiple generations and demonstrate to the CCP that the U.S. takes these cases seriously, potentially deterring future prosecutions of Falun Gong practitioners with American relatives. Once released, these individuals would be able to offer first-hand information on detention conditions in China, including potentially forced labor linked to exports to the United States. Moreover, their release could inspire hope for millions of Falun Gong practitioners and other religious prisoners in China, even those without U.S. ties who would benefit from the increased scrutiny and advocacy for their plight. Specifically:

1. The U.S. Government should urgently ask Chinese officials for information about the whereabouts and expected release dates for Mr. Yang Chen and Ms. Zhimin Cao, permission for relatives or lawyers of Ms. Liu Aihua to visit her; and for Mr. Wang Zhiwen to receive a passport. The U.S. should call for the immediate release of Ms. Liu Aihua, Mr. Yang Chen, Mrs. Zhimin Cao, Mr. Wang Zhiwen, and for all four of these individuals to be permitted to leave China and come to the United States to reunite with their family. The U.S. should further bar entry to Chinese official Zeng Qinghong, who was reportedly involved in the decision to block Danielle Wang's father from leaving the country.

2. Senators should schedule a vote and pass S. 4914, the Falun Gong Protection Act, which would increase transparency, accountability, and deterrence surrounding the persecution of Falun Gong practitioners specifically, and lethal organ transplant abuses in China more broadly.

3. Members of Congress should write to the U.S. State Department asking the Ambassador to China and top officials to raise these three cases in meetings with Chinese counterparts, including at the highest levels of diplomacy.

4. The CECC should add Ms. Liu Aihua, Mr. Yang Chen, and Ms. Zhimin Cao to the Political Prisoner Database.

5. Ambassadors, government officials, and NGO experts on China should meet with these U.S. citizens to better understand conditions in China and identify ways to support their families' quest for freedom. Include them in private hearings, events, or roundtables regarding religious persecution, freedom of expression, or political prisoners in China.

"I don't know if I will ever see my mother again," recalls Lydia Wang. "As long as the persecution of Falun Gong continues, my mother remains at risk of further harm if she stays in China. I request the United States Government's assistance in securing her release. We would like to bring her safely home to New York."

For more information on these and other family rescue cases in the United States, please visit the Falun Dafa Information Center website.

SUBMISSION OF BILL BROWDER, GLOBAL MAGNITSKY JUSTICE CAMPAIGN

Dear Chairman Smith and Co-chairman Merkley,

My name is Bill Browder, and I am the head of the Global Magnitsky Justice Campaign and CEO of Hermitage Capital Management.

Until 2005, I was the largest foreign investor in Russia. My firm worked to expose corruption within Russian companies to improve corporate governance. In retaliation for my efforts to shed light on illicit activities in Russia through my shareholder activism, the Russian authorities declared me a threat to national security and banned my entry to Russia. The situation escalated with the wrongful arrest, torture, and murder of my lawyer, Sergei Magnitsky, in 2009. Since then, I have been deeply involved in advocating for human rights and justice. This led to the establishment of the Magnitsky Act, a piece of legislation that imposes visa bans and asset freezes on human rights violators globally. I am honored to provide testimony for this critical hearing on Unjustly Detained Americans in China.

First, I want to express my sincere gratitude to Chairman Smith for his unwavering support and leadership in sponsoring the Global Magnitsky Act. Your long-standing commitment to human rights and justice has been instrumental in our shared efforts to hold human rights abusers accountable worldwide. I commend the Congressional-Executive Commission on China for organizing this bipartisan hearing on unjustly detained Americans in China. It is a vital initiative that highlights the plight of Americans arbitrarily imprisoned in China, and I fully support your efforts to bring new light to this pressing issue.

This hearing highly resonates with my own experiences since Sergei Magnitsky's unjust detention, as I have fought against wrongful imprisonment and judicial abuse through the Global Magnitsky Justice Campaign. The campaign successfully brought widespread global attention to human rights violations, and led to significant legislative outcomes, including the 2016 Global Magnitsky Act in the U.S. Since then, I have successfully advocated for the adoption of Magnitsky Acts in 35 countries. Through asset freezes and visa bans, Magnitsky Acts seek to hold accountable those who commit human rights abuses and corruption worldwide.

The issue of arbitrarily detained individuals is not complicated, and democratic governments' response to this ongoing issue highlights the difference between right and wrong. It is more important now than ever for legislators across the aisles to defend the rights of citizens wrongfully detained abroad in authoritarian regimes such as China and Russia. At the core of the values of a rule-of-law democracy is the fundamental belief in justice and due process, including the right to a fair trial in an impartial court. Uniting to protect these principles is not just a matter of policy, but a reaffirmation of what a democracy like the U.S. stands for.

Congress must exert sustained and significant pressure on the U.S. Government to ensure the protection of Americans detained in China, who have long been overlooked at the political level. While consular support, such as welfare visits, is beneficial, it falls short of what is truly needed. There must be a firm commitment and active intervention to confront and challenge the unjust judicial system in China.

Just as in Russia, which I have experienced firsthand on numerous occasions, in China there is no such thing as a free and transparent trial in front of an impartial judge in an independent court. This is because there is no separation of powers within the judicial system. The Chinese Communist Party controls the entire judicial system, including the police, prosecution, judiciary, and penal system and even the legal profession, making fair and transparent trials impossible. Verdicts are decided by party committees, not independent judges, leaving no opportunity for a proper legal defense. Chinese judgments would not withstand scrutiny under the rule of law, and most Chinese prosecutions would fail if retried in a Western court.

I urge the U.S. Government to set aside diplomatic niceties and take decisive action by intervening in the judicial cases of all Americans detained in China. Research by former prisoner Peter Humphrey indicates that up to 300 Americans are currently detained in China under various conditions, often on dubious charges. Some American prisoners have already been held in China for over 10 years on opaque and unjust convictions.

The arbitrary enforcement of local laws and the potential for exit bans without clear legal processes pose significant risks to American citizens. It is therefore crucial for the U.S. Government to move beyond standard diplomatic protocols and actively engage in protecting its citizens, challenging the unjust system, and advocating for fair treatment and due process for all detained Americans.

Governments committed to the rule of law have a moral and legal obligation to defend their citizens, especially those considered by the State Department to be arbitrarily detained, affording them the diplomatic attention of the Special Presidential Envoy for Hostage Affairs (SPEHA). Many of these people are detained for the sole reason that they are Americans, effectively handing China a vast supply of prisoners to use as diplomatic leverage whenever they please.

All citizens deserve unwavering support from their home government. The large number of Americans arrested on allegations of minor offenses merit the same level of advocacy as the select few who have been placed on the SPEHA list of arbitrarily detained persons. In China, American prisoners often receive disproportionately long sentences for their alleged crimes and endure cruel and inhumane conditions, including inadequate nutrition, lack of medical care, and restricted access to fresh air and sunlight. Their communication with loved ones is obstructed or censored entirely.

For many years, American administrations from both parties have shied away from intervening directly in the unfair and biased Chinese judicial system on behalf of U.S. citizens caught in legal ordeals. The U.S. Government seems to overlook—or deliberately ignore—a crucial fact: the 2018 Chinese International Criminal Judicial Assistance Law provides a clear mechanism for transferring “convicted” pris-

oners from China to their home countries, even without a bilateral prisoner transfer agreement. This law offers a potential pathway for action that has been largely unexplored. It is time for a change in approach—the U.S. Government must leverage this legal framework to more actively support and potentially repatriate American citizens unjustly held in Chinese prisons.

The Chinese government is not stopping their practice of arbitrary detention anytime soon and has no intention of complying with international legal standards. I urge the U.S. Government to take seriously the cases of all Americans imprisoned in China, in addition to the three Americans, David Lin, Kai Li, and Mark Swidan, on the SPEHA list, and to consider Magnitsky sanctions against those responsible for these injustices. The U.S., as a global leader, must set an example in upholding human rights and the principles of justice globally.

Thank you for your attention to this critical issue.



**United States House of Representatives
Congressional-Executive Commission on China**

“Truth in Testimony” Disclosure Form

In accordance with Rule XI, clause 2(g) of the Rules of the House of Representatives, witnesses are asked to disclose the following information. Please complete this form and attach it to your written testimony and it may be made publicly available in electronic format.

1. Date of Hearing:

2. Hearing Title:

3. Your Name:

4. Organization, organizations, or government entity you are representing:

5. Position title:

6. Are you an active registrant under the Foreign Agents Registration Act (FARA)?
_____ Yes _____ No

False Statement Certification:

Knowingly providing material false information to this commission, or knowingly concealing material information from this commission, is a crime (18 U.S.C. 1001). This form may be made part of the hearing record.

Witness Signature

Date

Witness Biographies

Nelson Wells, Sr., father of detained American citizen Nelson Wells, Jr.

Nelson Wells, Sr. is the father of Nelson Wells, Jr., and a native of New Orleans, Louisiana. He and his wife Cynthia now live in Haughton, Louisiana. Mr. Wells is a 20-year U.S. Army veteran, stationed all over the country and globally, including a stint in the Middle East during the Gulf War. His wife Cynthia worked as an Army recruiter for the Department of Defense for 28 years. Both are retired and are now advocating full-time for their son's release.

Harrison Li, son of detained American citizen Kai Li

Harrison Li is a doctoral student studying statistics who has begrudgingly had to become a political advocate for his father, Kai Li. He is originally from Long Island, New York and currently lives in the San Francisco Bay area. He serves on the steering committee of the Bring Our Families Home Campaign, an advocacy group of families of Americans wrongfully detained around the world working together to try to cut through the bureaucratic obstacles to getting assistance and information for the families of wrongfully detained Americans. His greatest wish is for his father to be home and in good health to see him graduate next spring, after missing his college graduation in 2018.

Tim Hunt, brother of detained American citizen Dawn Michelle Hunt

Tim Hunt is the brother of Dawn Michelle Hunt and a native Chicagoan. He attended Whitney Young Magnet School and DePaul University and served as a Chicago police officer for 28 years, working on the beat, and in plainclothes, bicycle, mounted, and forensic unit roles. Serving and protecting the public is a family business, as his mother, father and three uncles were all Chicago police officers as well. Tim retired in 2017 and has been advocating tirelessly for his sister's release from prison.

Peter Humphrey, journalist, due diligence specialist, Sinologist, and former prisoner of China

Peter Humphrey is a British sinologist who has spent half a century working and studying China and who has lived there for 25 years, as a student, teacher, journalist, philanthropist, corporate due diligence detective—and prisoner. In 2013 Peter and his American wife Yingzeng Yu were wrongfully imprisoned on false charges of illegal information gathering—their only “crime” was to have offended someone with connections in the Chinese Communist Party.

Upon his release in 2015, Peter created a support network for the families of foreign prisoners to lobby for their welfare and release. Through his work he has become a specialist on justice and imprisonment in China and is undoubtedly the leading authority on foreign prisoners in China.

In addition to his work with families of the wrongfully detained, he is also an external research affiliate of Harvard University's Fairbank Center for Chinese Studies, an occasional columnist and documentary adviser, and has been a guest speaker at universities and think tanks on China's judicial and penal system.

