



Message to American Business in China: No One is Safe

By

Jeff Gillis

March 1, 2017

Chairman Rubio, Co-Chairman Smith, and Commissioners of the CECC,

Thank you for this opportunity to testify at this hearing, and for the chance to tell Sandy's story.

Fifteen years ago, there was great optimism by many as China was admitted into the WTO. The belief was that if Western Governments engaged China in trade, China would learn from the West, not just about business, but also about rule of law, property rights, human rights, and human dignity. My wife, Sandy Phan-Gillis, was a strong believer in engagement with China, and a firm supporter of China's entry into the WTO. She has spent her entire career promoting trade and positive relations with China. Unfortunately, in terms of human rights, admitting China to the WTO has turned out to be a very bad deal. Many of China's promises have been broken, especially in the areas of human rights and rule of law. That has been clearly shown in my wife's detention in China by China State Security.

The timing of this hearing is important. March of 2017 marks two years that my wife, Sandy Phan-Gillis, has spent in detention in China.

Sandy is an American citizen, a wife, a mother, and a resident of Houston, TX for almost 40 years. She was detained by China State Security on March 19, 2015 while on a trade mission to China with Houston Mayor Pro Tem Ed Gonzalez, to promote business between Houston and China. Sandy made this trip in her capacity as a member of the Mayor's International Trade and Development Council, and as President of the Houston Shenzhen Sister City Association. She was seized one day after meetings that she arranged between Houston Mayor Pro Tem Ed Gonzalez and Vice Mayor of Shenzhen Tang Jie. Note that Sandy was detained by China State Security, China's spy agency, and not by China Public Security, China's police force. China State



SaveSandy www.SaveSandy.org

Security is the Chinese agency that sends Chinese spies to America to steal US government and commercial secrets.

China State Security used isolation and threats against Sandy to keep her travel companions and her family from finding out about her initial detention. Her family did not know about her detention until after I filed a missing person report with the US Consulate in Guangzhou.

Sandy's first six months were spent in designated-location residential surveillance. There she was subjected to solitary confinement, torture, and relentless questioning in a torture chair. This chair was described as a short 4-legged stool (with no back or armrests), and with raised teeth in the seating area. This form of torture has been described by other detainees in China as the torture of "sitting on a small stool". Sandy was subjected to repeated threats, including the threats to take away her access to doctors and medicine. Sandy suffers from a number of serious medical conditions, and threatening to take away her access to doctors and medicine is not much different than threatening to kill her. For a time, Sandy was denied access to medicine. China State Security used torture to force Sandy to make a false confession.

Sandy was hospitalized twice as the direct result of her horrific treatment by China State Security. One of these hospital stays was for five days after Sandy had a fear induced heart attack during a brutal interrogation.

Use of torture during designated location residential surveillance became so widespread and notorious that the Chinese government announced new guidelines for the initiation and oversight of such detention shortly after Sandy was moved into a regular jail. Sandy is now in Nanning #2 Detention Center, initially under solitary confinement, but now with a cell mate.

Sandy has been denied many of the rights she is entitled to under Chinese and International Law. As one example, Sandy, her lawyers, and her family have never received a copy of the warrants for her detention or her arrest. When pressed to provide these critical legal documents, Chinese officials responded that these documents were not required since Sandy is a foreigner.

The Working Group on Arbitrary Detention in the Office of the United Nations High Commissioner for Human Rights reviewed Sandy's case and determined that Sandy had been arbitrarily detained and that her rights had been violated under International Law. The ruling also documented some of the violations of Sandy's rights under Chinese Law. This is the first time in its history that the United Nations has made



SaveSandy www.SaveSandy.org

a ruling that China had arbitrarily detained a US citizen. One of the key factors in the UN's determination was the response from Chinese authorities, in which they admitted to treating Sandy in ways that violated International Law.

Sandy was not allowed to speak with her lawyer for well over a year. She was not charged with a crime for well over a year. For about the first year and a half her monthly 30 minute visits with the US Consul were supervised by agents of China State Security, the very people who tortured her. She still isn't allowed to have unsupervised visits with the US consul. After nearly 2 years, there still is no scheduled trial date. Sandy still hasn't had a single appearance before a Judge.

Initially we were told that Sandy was being investigated for Stealing State Secrets. China has a tendency to call anything it wants a state secret, so it really didn't help us to understand what was going on. In China's response to the UN investigation on Sandy's arbitrary detention, Chinese authorities informed the UN after a year of detention that Sandy was being investigated for "Assisting a Third Party to Steal State Secrets". This is important, because she wasn't accused of being a spy, and she wasn't accused of stealing state secrets. She was accused of assisting someone else who stole state secrets. Just a few months later, Chinese authorities filed charges in which Sandy is accused of being a spy for a foreign nation. Specifically, Sandy is accused of being a spy for the FBI, which isn't even a spy organization.

Sandy is accused of the following three specific things:

- 1) going on two spy missions to China in 1996 to spy on China for the FBI
- 2) helping the FBI in 1997 to capture two Chinese spies who were sent by China to spy on the US
- 3) helping the FBI in 1997 - 1998 to turn these two Chinese spies into double agents who would spy on China for the FBI

In addition to denials from the FBI that Sandy ever worked for them, we have a mountain of evidence that these charges are false. Below are just a few examples. We have many more:

- 1) Sandy's passport indicates that she didn't travel to China in 1996. There is no China visa, and no entry or exit stamps. Sandy is accused of traveling to China under the guise of "education", but Chinese authorities didn't even check to see if she traveled to China that year.



SaveSandy www.SaveSandy.org

- 2) A response from U.S. Customs and Border Protection to a FOIA request shows that Sandy had no international travel in 1996.
- 3) Sandy's pay stubs from her job at the Houston Police department show that she was working full time, with only 11 hours of time off during the time of an alleged spy mission in China for the FBI.
- 4) Receipts and credit card slips signed by Sandy show that she was in Houston during the time she was supposedly on a spy mission in China for the FBI.
- 5) Sandy is mentioned in a local newspaper article (including a photo of Sandy) about an event for Houston's Sam Houston Race Park during the time that Sandy was allegedly in China on a spy mission for the FBI.
- 6) Sandy was an officer in the Texas Asian Republican Caucus during the time that she is accused of being a spy for the FBI. During an alleged spy mission to China in September 1996, Sandy was a presenter at TARC's Statesman of the Year award ceremony.

Additionally, we have the following evidence:

- 7) A response to a FOIA request to the FBI shows that Sandy isn't mentioned in any FBI files. This shows that Sandy did not do any work for the FBI.
- 8) A response to a query to the United States Office of Personnel Management shows that Sandy did not work for the FBI. Anyone who works for the FBI is required to undergo a background investigation. Files for these background investigations were all compromised as part of the OPM database hack that has been widely reported in the media. As such, the OPM has set up a system for individuals to verify if they have had any information that was stolen as part of the OPM database hack. The OPM confirmed that Sandy did not have any data in the hacked OPM database. This indicates that she did not undergo an FBI background check, and did not do work for the FBI. It is widely believed that the OPM hack was done by agents of China, which indicates that Chinese authorities have had this proof themselves for some time.

The Chinese Foreign Ministry and the Chinese Consulate in Houston took steps to block this and other evidence from being legalized for several months to keep it from being used at trial. After a media campaign by me and some strong action by the State



SaveSandy www.SaveSandy.org

Department and my Congressman Al Green, the Chinese Consulate legalized our evidence so that it could be used at trial.

Chinese officials (including the Ministers of Public Security and State Security) have been asked repeatedly by Sandy's lawyers and by me to provide evidence from Chinese government databases of Sandy's China visas, China entries, and China exits. So far, the Chinese government has refused to do this, even though concealing such evidence is a crime under Chinese law. Meritorious service to China is an important consideration under China law. I have asked the China Foreign Ministry, the Municipal Government of Shenzhen, and Shenzhen Public Security to provide evidence of Sandy's substantial meritorious service to China. Thus far, they have refused. Feedback to me from the China Consulate in Houston has been that they don't think Sandy is a spy, but they can't help in a case involving State Security. China's Ministry of State Security is arguably the most powerful institution in China, and every other government agency is afraid of it.

Beyond the hard proof for the defense, there is a great deal about the allegations against Sandy that just doesn't make sense. It was 20 years ago. Some of the allegations are from over 20 years ago.

At the time she is accused of being a spy for the FBI:

- 1) Sandy worked full time as a Clerk/Typist for the Houston Police Department.
- 2) Sandy had a 9 year old daughter (who is now 30 years old).
- 3) Sandy was operating a side business organizing Houston's Chinese New Year Festival and Houston's Moon Festival, and marketing Sam Houston Race Park to the Asian community in Houston.

The allegation of spying is in Nanning, a Chinese city that as far as I can tell Sandy visited one time (and not during the alleged spying timeframe of 1996 -1998).

There are some key issues in Sandy's case that go well beyond the arbitrary detention and torture of a lone American citizen, and touch on important considerations of the safety of American citizens, Homeland Security, and International Law:

- 1) Under China law, you are considered a spy if you join a foreign espionage organization. Part of the evidence against Sandy is a statement by China State Security that the FBI is an espionage organization that spies on China. This statement by China State Security places in jeopardy anyone who has ever actually worked for the



SaveSandy www.SaveSandy.org

FBI. The FBI has a field office in Beijing. Officers there have diplomatic immunity, which offers some degree of protection. However, there would be no protection for any current or former FBI agents in China for vacation or business. The evidence being used against Sandy could be used to pick up anyone who ever worked for the FBI, prosecute them, and throw them in prison for years, just because they had worked for the FBI. If the Chinese government was the source of the OPM database hack (as is widely believed), then they likely have a complete list of FBI employees as of a couple of years ago.

2) The allegations that Sandy helped catch Chinese spies, and convert them into double agents for the FBI are false. However, even if they were true, these would be the actions of an American citizen doing lawful (arguably even heroic) work on US soil. China State Security, the Chinese Procuratorate (the Prosecutor), and the Chinese courts are investigating, prosecuting, and trying an American citizen for allegations of violating Chinese law in the United States 20 years ago. In essence, China is claiming the right to enforce Chinese law against anyone in the world, anywhere in the world, at any time in the world. Chinese sovereignty should end at the borders of China. Chinese officials should not be trying to apply Chinese law to an American citizen for alleged 20 year old actions on US soil. If China can arrest and try any American for any alleged violation of Chinese law that occurred in the US, then no American should feel safe in China.

3) Perhaps most of all, this:

Sandy has spent her career encouraging engagement between the US and China, and building positive relations between our two countries. She founded, and for years ran, Houston's longest running Chinese New Year Festival. She served as either Vice President or President of the Houston Shenzhen Sister City Association for over 20 years. She was the HSSCA representative to the Sister Cities of Houston board for over 20 years. She has worked extensively for decades with the Houston Mayor's office, the China Foreign Ministry, the Chinese Consulate in Houston, the Municipal Government of Shenzhen, China, and the Public Security Bureau of Shenzhen. She has introduced hundreds of Americans to China, and hundreds of Chinese to the US (including school kids). She has hosted Chinese dignitaries. She has arranged for Chinese Doctors and Nurses to receive training in Houston. She has arranged for medical care and medicine in Houston for injured Chinese Police Officers. She even helped introduce Houston to a very young Yao Ming when she organized a good will basketball tour of Houston NCAA all-star players. They traveled to China in the summer of 1998, and played a number of games against the China National Team, including its



SaveSandy www.SaveSandy.org

youngest member, teenager Yao Ming. Houston Mayor Sylvester Turner, the Houston Shenzhen Sister City Association, and the Sister Cities of Houston have documented many of Sandy's good works for China and for Houston-China relations. It isn't just one or two pages. It is in all honesty a book. Any Americans considering travel to China should ask themselves if their story is as good as Sandy's. If China State Security can arbitrarily detain and torture Sandy, they can arbitrarily detain and torture any American citizen. If Sandy isn't safe in China, then no American is safe in China.

Sandy isn't some top secret spy for the FBI. She is a wife and a mother, with aging parents (including a father who just had a major heart attack). She suffers from many serious health problems such as high blood pressure, high blood sugar, and high cholesterol, and needs to take 7 prescription medicines a day. Chinese prisoners are required to do forced labor manufacturing products for export to the US and other countries. Sandy probably would not live long under the rigors of forced labor in Chinese prison. If we can't find a way to bring Sandy home, she is going to die in a Chinese prison. I would appreciate anything that you can do to help keep that from happening. Sandy is in a desperate situation, and she needs all the help that she can get.

In response to repeated pleas by American officials, including, I am told, National Security Adviser Susan Rice and President Obama, Chinese officials have repeatedly stated that "all of her rights are guaranteed". However, this is categorically false. Chinese authorities do not use the law as a tool for justice. They use the law as a weapon when it is convenient to do so, and they ignore it when it is convenient to do so.

Torture is illegal under Chinese law, and confessions obtained through torture are inadmissible under Chinese law. The problem is that Chinese officials, particularly within China State Security, do not follow Chinese law. They regularly obtain confessions through torture, as they did in Sandy's case. Chinese authorities are required to investigate allegations of torture, and they recently completed the investigation of torture in Sandy's case. The investigation was done by China State Security, by the very people who tortured her.

Sandy has been detained for far too long. Where are the consequences for China's horrific treatment of an American citizen? There has been a lot of talk, but it is time for action. Below are some specific policy suggestions:

- 1) Concealing and fabricating evidence are illegal under Chinese law. However, officials of China State Security routinely lie, torture defendants, and conceal and fabricate evidence, as they have done in Sandy's case. Chinese officials who engage



SaveSandy www.SaveSandy.org

in torture, and their family members, should be barred from entering the US. If they own property in the US, it should be confiscated and sold, with the proceeds used as compensation for the false imprisonment and torture of American citizens.

2) China has been engaged for some time in the infamous “Operation Fox Hunt”, in some cases using highly questionable means to track down and bring back alleged Chinese economic criminals who have fled to other countries. The Obama administration cooperated with the Chinese government in these efforts, and returned a number of high priority Chinese economic fugitives, getting nothing in return. In November of 2016, the US returned Yang Xiuzhu, China’s most wanted economic fugitive, getting nothing in return. China State Security has repeatedly told Sandy that she should encourage the US government to negotiate her release through a prisoner exchange. There is no doubt in my mind that Chinese officials would have been happy to release Sandy for the return of Yang, their highest profile economic fugitive. There are hundreds of Chinese economic fugitives, with assets on the order of billions of dollars. The US government, including the Department of Justice and the FBI, has continued to cooperate with the Chinese government on the return of these fugitives. The FBI even maintains an office in Beijing with a key responsibility of assisting China in these efforts, even as China State Security accuses the FBI of spying on China. All such cooperation should be halted immediately until China State Security drops their claims of spying against the FBI and Sandy, and returns Sandy to the US.

3) China has long sought an extradition treaty with the US. I would not advocate for such a treaty. However, we should make it clear that we won’t even discuss the possibility of such a treaty while China continues to subject American citizens to arbitrary detention and torture. Release of Sandy and others like her should be a primary condition of entering into any discussions of an extradition treaty with China.

4) Congressman Al Green has filed House Resolution 153, calling for Sandy’s release. I would like to see full support from the House Foreign Affairs Committee and from the full House for this resolution.

5) Recent events have shown that China has become a more dangerous place for foreigners to do business, yet many businesses and individuals remain woefully uninformed about the risks. The State Department should consider implementing a travel advisory for China.



SaveSandy www.SaveSandy.org

6) China continues to use slave labor in Chinese prisons to manufacture goods for export. Some examples are Christmas lights and silk flowers sold by some of America's best know companies. The US should take strong steps to ban the import of products produced by slave labor in Chinese prisons, including strong penalties for American companies that import these products.

The Chinese government is making a bet that our economies have become so intertwined, and that we have become so addicted to cheap Chinese products and so obsessed with access to Chinese markets, that we don't dare challenge China on human rights in cases like Sandy's. With China's kidnapping of foreign citizens in Thailand and Hong Kong, the televising of forced confessions of foreign citizens on Chinese television, detention of many American businesspeople in China over business disputes, and Sandy's treatment by China State security, China seems to feel that they can get away with anything. If we continue to remain quiet, they will have been proven right.

Just before China was admitted to the WTO (over the space of about 5 months in late 2000 and early 2001) China State Security seized 4 different US residents who had either US citizenship or permanent residency and accused them of spying. The detainees were all academics, and there was never any credible evidence presented against them. The Chinese government was met with strong public condemnation from the State Department, President Bush, and both chambers of the US Congress. Within about 5 months, all four were released. Now Sandy Phan-Gillis faces a charge of spying for the FBI, with no credible evidence against her. She has been arbitrarily detained, deprived of her rights, subjected to solitary confinement and torture, and held for 2 years without so much as a hearing in front of a judge, let alone a trial. Where is the outrage, where is the action, and where are the consequences for China? When it comes to human rights in China, has China's admission to the WTO changed China for the better, or has it changed America for the worse?

Thank you for your interest in Sandy's case, and for the opportunity to speak with you today.