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### Department of Commerce Internal Review Report Released and Our First Reactions

On September 3, 2021, a Friday before the Labor Day holiday weekend, the Department of Commerce (DOC) [announced](#) that it had accepted the findings and recommendations from an internal review on the Investigations and Threat Management Service (ITMS). The internal review was conducted by the DOC Office of General Counsel (DOC/OGC), which produced [a 26-page report](#).

On the same day, Senator Roger Wicker, Ranking Member of the Senate Commerce, Science, and Transportation Committee, released [a statement](#), quoting the senator, "I am encouraged by the actions taken by Secretary Raimondo to correct the egregious misconduct within the Commerce Department. I will complete a thorough review of the Secretary's report and consider additional oversight to ensure compliance with these corrective actions. We will continue to investigate why the Department's Inspector General previously failed to address the allegations of abuse of power, ethnic targeting, and reprisal by ITMS staff." The Washington Post also reported: [Commerce Dept. security unit to be shut down after overstepping legal limits in launching probes, officials say](#).

According to DOC, ITMS will be eliminated within 90 days and the additional recommendations will be implemented within 180 days. Disbanding the ITMS is long overdue. According to DOC, the only director of ITMS since 2006 remains an employee in the Department. While we are encouraged that DOC has finally taken action on a unit that has gone rogue and unaccountable for 15 years, we are also alarmed that:

1. DOC claimed that it started its internal review on April 19, 2021 because of an Office of Inspector General (DOC/OIG) internal report from two years ago. It is simply not believable. DOC/OIG [failed to provide complete documentation](#) after the Senate Committee inquiry was started before March 15, 2021 after dozens of whistleblower complaints to the DOC/OIG went

- unanswered. The lack of candor about the start of the internal review raises serious questions about the credibility of its findings. Read more about the Senate Committee investigation timeline at <https://bit.ly/3B1R0kA>
2. APA Justice offered our perspective and assistance in a letter to Commerce Secretary Raimondo in [a letter](#) on June 1, 2021. We provided facts and evidence on Ms. Sherry Chen and Dr. Chunzai Wang. The DOC report admitted exactly two ITMS investigations that resulted in criminal charges. Regarding allegations of racial and ethnic profiling, DOC did not find "clear evidence that ITMS pursued any particular investigations based on improper considerations." In a follow-up letter dated July 19, 2021, we requested the Secretary to expand the scope of her ongoing review and commit to a comprehensive solution that includes immediate redress for impacted persons. The DOC report did not address the concerns raised in our request.
  3. It is not surprising that DOC/OGC did not find evidence of racial profiling. A unit with an average staff of 12 employees could not have gone rogue for 15 years by itself if there was proper oversight and accountability. In fact, it could not have happened without the complicit roles of some units and officials. An internal review has its inherent conflict of interest, both actual and perceived. DOC's neglect of expressed congressional and public concerns is noticeable and alarming. According to the Washington Post report, the review recommended planning for the destruction of information collected by ITMS whenever permitted by record-keeping laws "to ensure that no information developed by ITMS records informs future decisions without a prior legal review and independent factual corroboration." Within 180 days, records and evidence will be purged instead of preserved for congressional and public review according to the DOC announcement.

We are afraid that the civil rights and civil liberties of the current and former Asian American employees in DOC will again be brushed aside by this internal review and the DOC announcement. There are currently about 5,800 Asian American employees in DOC.

## **2021/09/13 APA Justice Monthly Meeting**

The next APA Justice monthly meeting will be held on Monday, September 13, 2021. New speakers will include Congressman Andy Kim (NJ-03); Jamie Satterfield, an investigative reporter who covered the trial of former University of Tennessee, Knoxville (UTK) Professor Anming Hu trial; Professor Mary McAlpine, President of the UTK Chapter of the American Association of University Professors, and Professor Andrea Liu, Professor of Physics at the University of Pennsylvania. Nisha Ramachandran and Gisela Kusakawa will provide updates from the Congressional Asian Pacific American Caucus and Advancing Justice | AAJC respectively. The monthly meeting is by invitation only. If you wish to join, either one time or for future meetings, please contact

one of the co-organizers of APA Justice - Steven Pei, Vincent Wang, and Jeremy Wu - or send a message to [contact@apajustice.org](mailto:contact@apajustice.org).

Read past APA Justice monthly meeting summaries here: <https://bit.ly/3kxkqxP>.

## Latest on Two "China Initiative" Cases: Professors Mingqing Xiao and Franklin Tao

On September 2, 2021, defense attorneys for Southern Illinois University Professor Mingqing Xiao [motioned](#) to "Dismiss the Indictment in its entirety and grant such further relief as the Court may deem just and appropriate." Professor Xiao is the most recent academic indicted under the "China Initiative." As with other academics, he was charged for wire fraud and false statement, not economic espionage or trade secret theft - purportedly the purpose of the "China Initiative." Read more about the Mingqing Xiao case at: [https://bit.ly/APAJ\\_MingqingXiao](https://bit.ly/APAJ_MingqingXiao)

On August 24, 2021, the Washington Post reported [Kansas professor says FBI misled court in alleging hidden ties to Chinese government](#). According to the report, an attorney for University of Kansas Professor Feng "Franklin" Tao alleged the FBI of misleading a federal judge while seeking search warrants in a case charging Professor Tao with failing to disclose his ties to a Chinese university and a Chinese government recruitment program. Professor Tao is asking the court to throw out evidence obtained with the warrants. His case is one of the "China Initiative" cases and scheduled to go to jury trial on October 25, 2021. Read more about the Franklin Tao case at <https://bit.ly/3fZWJvK>.

The Department of Justice [online report on the "China Initiative"](#) has not been refreshed since June 14, 2021. It used to be updated approximately once a month.

## APS Webinar on Immigration and Science

On September 17, 2021, the [American Physical Society \(APS\)](#) will host a webinar titled "Effects of Federal Immigration Policy on US Science and All Scientists." The webinar will summarize the history regarding the effects of immigration on US science, describe how attitudes in the United States towards students and scientists of Chinese ethnic origin are changing, describe the human toll of this change in attitude and policy, and discuss how the scientific community can best support international students and scientists.

Former Energy Secretary Dr. Steven Chu headlines a panel with four other speakers. Dr. Andrea Liu, who will speak in the September 13 APA Justice meeting, will serve as moderator. The webinar is co-sponsored by [American Institute of Physics](#), [American Association of Physics Teachers](#), [Asian American Scholar Forum](#), [APA Justice](#), [International Organization of Chinese Physicists and Astronomers \(OCPA\)](#), and [National Society of Black Physicists](#). For more details and register for the event, please visit <https://bit.ly/2WJaUlj>

## **The Yellow Whistle has become a symbol against anti-Asian hate**

On September 5, 2021, Axios reported [How the yellow whistle became a symbol against anti-Asian hate](#). "The Yellow Whistle" is a self-protection program launched this year by Agnes Hsu-Tang and Oscar Tang and four others in the wake of pandemic-fueled anti-Asian hate. More than 350,000 free whistles have been distributed at hundreds of locations since April across North America. Non-Asians are also encouraged to take a whistle as a sign of solidarity.

According to CNBC on August 30, 2021, FBI reported that hate crimes targeting people of Asian descent in the U.S. rose by 70% last year compared with the number of such incidents in 2019. That increase coincided with the outbreak in the U.S. of the Covid pandemic, which some racists have unjustly blamed on Asian Americans. President Joe Biden in April signed the Covid-19 Hate Crimes Act to address the rise in anti-Asian American crimes seen in 2020. Read more at <https://cnb.cx/2WZboTO>.

On August 12, 2021, AP reported [More than 9,000 anti-Asian incidents since pandemic began](#). The frequency of anti-Asian incidents — from taunts to outright assaults — reported in the United States so far this year seems poised to surpass last year despite months of political and social activism, according to the latest report by Stop AAPI Hate.

## **Chinese Historical Society of America documentary on the legacy of McCarthyism on the Chinese American community**

On September 11, 2021, the Chinese Historical Society of America will show a documentary on the legacy of McCarthyism on the Chinese American community. Chinese American men and women who were hunted down, jailed, and targeted for deportation speak for the first time about how they and their friends were investigated and prosecuted by government agents during the McCarthy witch hunts of the 1950s. At the height of the hysteria, thousands of Chinese immigrants and American citizens of Chinese descent were targeted because of their ethnicity and alleged risk to national security. This cautionary tale of xenophobia and hysteria serves as a reminder of the fragility of constitutional protections today. A Q&A session with the Director Amy Chen and UC Berkeley Professor Emeritus Ling-Chi Wang will follow. For more details and register for the event, please visit: <https://bit.ly/3n4lOwJ>

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