



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Ted W. Lieu
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Lieu:

This responds to your letter dated June 17, 2021, to Department of Justice (Department) Inspector General Michael E. Horowitz, a copy of which was directed to Attorney General Merrick B. Garland, in which you requested an investigation into the Department's handling of the investigation and prosecution of University of Tennessee at Knoxville Professor Anming Hu in the case captioned *United States v. Hu*, No. 3:20-cr-00021 (E.D. Tenn.). We are sending identical responses to Members who joined your letter.

The Department's Office of Professional Responsibility (OPR) is responsible for investigating allegations of professional misconduct against Department attorneys that relate to the exercise of their authority to investigate, litigate, or provide legal advice, as well as allegations of misconduct against Department law enforcement personnel that relate to allegations of attorney misconduct within the jurisdiction of OPR. United States Attorneys and federal law enforcement are vested with broad discretionary authority to determine whether and how to pursue criminal investigations and prosecutions. Absent specific information suggesting that the discretion was corruptly or otherwise inappropriately exercised, OPR's role is not to second-guess the reasonable exercise of that discretion.

After receipt of your letter from the Office of the Inspector General, OPR opened an inquiry into the initiation and handling of the *Hu* case. The OPR inquiry focused on the facts and circumstances underlying the decision to bring charges in this case. After a careful, thorough assessment, OPR concluded that the charges brought against Professor Hu were supported by sufficient evidence and by a reasonable interpretation of applicable law. The charging decisions were made, reviewed, and approved by several levels of career prosecutors, including supervisors in the U.S. Attorney's Office and the National Security Division, and included appropriate consultation with experienced attorneys in those offices, as well as the Department's Criminal Division. OPR concluded that the charging decisions complied with the principles of federal prosecution and were based upon a good faith belief that the admissible evidence was sufficient to obtain and sustain a conviction. In addition, the indictment was returned by a grand jury that found probable cause to support the charges.

OPR identified no evidence that the prosecution was motivated by the defendant's race, ethnicity, or national origin. OPR found no suggestion that the prosecutors acted contrary to the Department's policy, set forth in Justice Manual § 9-27.260, that charging decisions shall not be improperly influenced by a "person's race, gender, ethnicity, national origin, sexual orientation, or political association, activities, or beliefs." In view of the evidence supporting the indictments, the extensive supervisory review and approval of the decision to seek an indictment, and the absence of any indication that the prosecution of Professor Hu was in any way motivated by his race, ethnicity, or national origin, OPR concluded that, although the government's prosecution was ultimately unsuccessful, the decisions to investigate and charge him were not improper.

The Department recognizes the importance of safeguarding against improper bias and motives in pursuing all cases. On February 23, 2022, the Department announced it was terminating the China Initiative after an extensive review in favor of a new comprehensive Strategy for Countering Nation-State Threats. In announcing the change, National Security Division Assistant Attorney General Matthew G. Olsen addressed concerns the China Initiative had "fueled a narrative of intolerance and bias" against people of Chinese descent, and recognized that its "pursuit of certain research grant fraud cases" had threatened to create "a chilling atmosphere for scientists and scholars that damages the scientific enterprise in this country." By taking a broader approach to combatting national security threats, the new Strategy will enable the Department to maintain a strong response to those threats, including by combatting economic espionage conducted for the benefit of a foreign government, foreign instrumentality, or foreign agent, irrespective of the statute used to charge a defendant, while continuing to ensure prosecutions are free of improper bias or motive. With respect to cases involving academic integrity and research security, the National Security Division intends to take an active supervisory role in the investigations and prosecutions.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

Carlos Felipe Uriarte
Assistant Attorney General

cc: Michael E. Horowitz
Inspector General
U.S. Department of Justice