

In This Issue #82

- Professor Anming Hu Acquitted!!!
- More on the Department of Commerce Internal Review Report and Racial Profiling

Professor Anming Hu Acquitted!!!

On September 9, 2021, Judge Thomas Varlan issued a [Memorandum Opinion and Order](#) and acquitted Professor Anming Hu of all charges in his indictment.

Professor Hu is the first academic to go to jury trial under the "China Initiative" launched by the Department of Justice (DOJ). The trial revealed the zeal of the misguided "China Initiative" to criminalize Professor Hu with reckless and deplorable tactics of spreading false information to cast him as a spy for China and press him to become a spy for the U.S. government. When these efforts failed, DOJ brought charges against Professor Hu for intentionally hiding his ties to a Chinese university, which also fell apart upon cross examination during the trial.

A former juror said after the trial, "It was the most ridiculous case." About the FBI, she added: "If this is who is protecting America, we've got problems."

Despite these egregious abuses of authority, DOJ motioned for a retrial of Professor Hu on July 30, 2021. The blatant disregard of the facts and misconduct in the first trial outraged APA Justice, as well as members of Congress, national and local organizations, the Asian American community, and the general public.

Judge Varlan wrote on page 42 of the 52-page ruling acquitting Hu that "the government has failed to provide sufficient evidence from which any rational jury could find, beyond a reasonable doubt, that defendant had specific intent to defraud NASA by hiding his affiliation with BJUT [Beijing University of Technology] from UTK [University of Tennessee, Knoxville]."

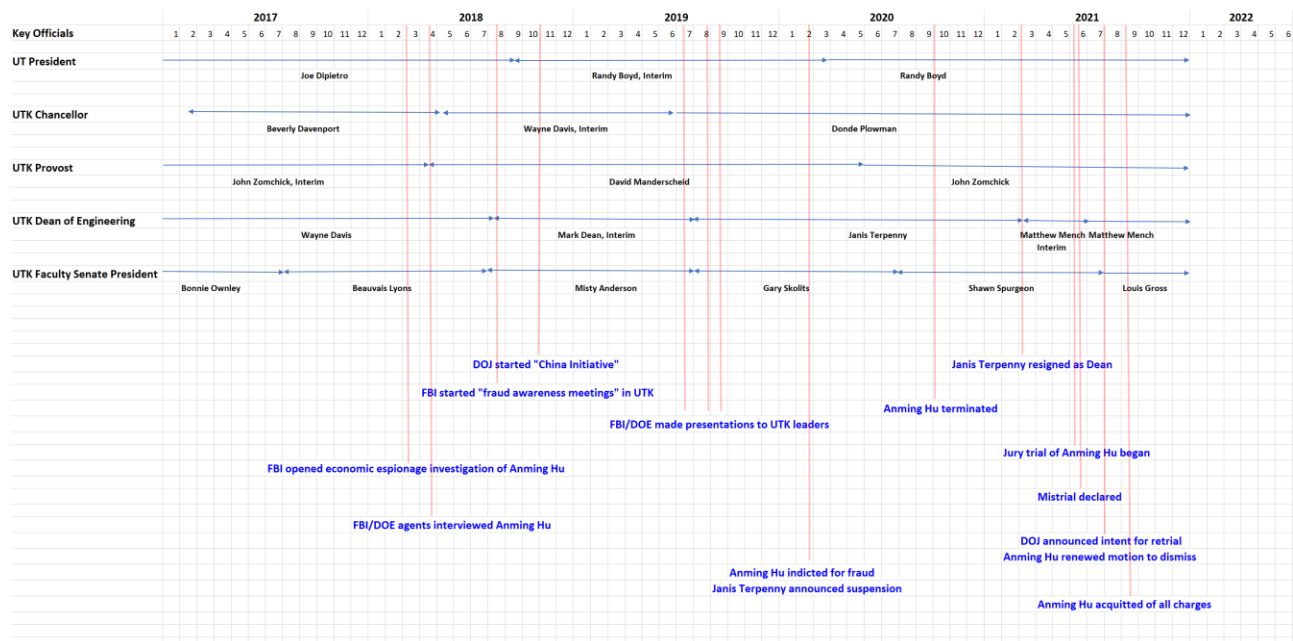
According to two legal experts, the judge's ruling has particular significance and relevance in similar cases under the "China Initiative." Citing page 38 of the ruling, they opined that: for establish a charge on wire fraud, the judge here required a high standard of "a specific intent to defraud" so as to receive some financial benefits. Professor Hu's alleged hiding of his relationship with a certain Chinese university was not to defraud NASA for money. Accordingly, the wire fraud charges should be dropped. This means that this will make DOJ's wire fraud charge against other professors considerably harder.

In addition, the judge carefully described how the University of Tennessee failed to provide clear guidance and training to the professors on the restrictions of the collaboration with Chinese institutions, which explains why Professor Hu did not fully disclose his affiliation with the Chinese university. This problem is common in nearly all universities in the U.S. and can now be used as a reason to fight the charges against the professors.

APA Justice will look into the employment situation and the roles and responsibilities of the University of Tennessee Knoxville (UTK) with reference to the timeline of the investigation and trial of Professor Hu.

Professor Hu, his wife Ivy, and attorney Phil Lomonaco have been invited to speak in the September 13 APA Justice monthly meeting, which will also feature Congressman Andy Kim; investigative reporter Jamie Satterfield; Professor Mary McAlpin, President of UTK Chapter of AAUP; Professor Andrea Liu of UPenn; Nisha Ramachandran, Executive Director of CAPAC; and Gisela Kusakawa, Staff Attorney of Advancing Justice | AAJC. The meeting is by invitation only. If you wish to join, either one time or for future meetings, please send a message to contact@apajustice.org.

Read more: <https://bit.ly/3yZtG4S>



More on the Department of Commerce Internal Review Report and Racial Profiling

We have consolidated and moved all the reports about the Department of Commerce (DOC) rogue investigative unit and racial profiling against Asian American to this web page: [Department of Commerce](#).

As we continue to review the DOC internal review and related reports, we are alarmed that:

1. The internal review was purportedly started by a two-year old Report of Investigation No. 19-0714 conducted by DOC's Office of Inspector General (DOC/OIG). [A redacted](#)

[version of this 2019 report](#) was posted publicly on September 3, 2021. It refers to one complaint filed in July 2019 for "targeting ITMS employees and conducting inappropriate searches of Department employees." Although "investigative steps led to additional allegations," it did not mention targeting of Asian American employees. The Sherry Chen Legal Defense Fund [filed a complaint with a whistleblower letter](#) in August 2018. There is no clear indication whether DOC/OIG conduct an investigation of this complaints or other complaints involving Asian American employees? If so, it is unclear whether DOC/OGC covered them in the internal review.

2. It is unclear about the diversity of the DOC/OGC review team or whether there was any Asian American member on the review team or not. There are about 5,800 current Asian American employees in DOC and an unknown number of former employees between 2006 to 2021. It is important to preserve information and evidence for review and oversight by Congress, impacted persons, and the public.
3. It is difficult for us to conceive that a unit with an average staff of 12 employees could have gone rogue for as many as 15 years by itself without complicit roles of some units and officials in DOC. For example, according to the [DOC Sixty-Eighth Honor Awards Program Book in 2016](#), a unit identified as "Investigations and Threat Management Division" (ITMD) received a Gold Medal Award for Personal and Professional Excellence in 2016. The Gold Medal is "the highest honorary award given by the Department, is granted by the Secretary for distinguished performance characterized by extraordinary, notable, or prestigious contributions that impact the mission of the Department and/or one operating unit and that reflect favorably on the Department."

The citation for ITMD reads: **"The organization is honored for identifying an unrecognized strategic threat to national security, and then leading a U.S. Government effort to address the major paradigm change created by this threat utilizing mitigating efforts directly impacting both current and future U.S. national strategy at the highest level. Their investigation developed unprecedented evidence that revealed an adversary's innovative means of circumventing existing protective, investigative, and enforcement methods."** If ITMD is the same as ITMS, not only was there no oversight and accountability for the rogue operation, there was top level departmental support and recognition.

Read more at: <https://bit.ly/3yZyWW3>

OFFICE OF THE CHIEF FINANCIAL OFFICER AND ASSISTANT SECRETARY FOR ADMINISTRATION



GOLD MEDAL PERSONAL AND PROFESSIONAL EXCELLENCE

Investigations and Threat Management Division

*Office of the Chief Financial Officer and
Assistant Secretary for Administration*

The organization is honored for identifying an unrecognized strategic threat to national security, and then leading a U.S. Government effort to address the major paradigm change created by this threat utilizing mitigating efforts directly impacting both current and future U.S. national strategy at the highest level. Their investigation developed unprecedented evidence that revealed an adversary's innovative means of circumventing existing protective, investigative, and enforcement methods.



GOLD MEDAL ORGANIZATIONAL DEVELOPMENT

Lea-Ann Bigelow

*Office of Performance, Evaluation
and Risk Management*

*Office of the Chief Financial Officer and
Assistant Secretary for Administration*

Ms. Bigelow is recognized for designing and leading the first DOC-wide Annual Strategic Review. This inaugural assessment of strategic progress reinforced the strategic plan governance structure and "results driven culture" through facilitated meetings involving over 150 executives and staff. An environment of trust, knowledge sharing, and pride in mission was cultivated. The approach met new OMB requirements for evidence of effectiveness and incorporated risk assessments, key performance metrics, and recommendations for improvement. Participant ratings of performance management processes improved by 21 points from FY15 to FY16.

Subscribe to The APA Justice Newsletter

Complete this simple form at <https://bit.ly/2FJunJM> to subscribe. Please share it with those who wish to be informed and join the fight. View past newsletters here: https://bit.ly/APAJ_Newsletters.

Copyright © 2021 APA Justice, All rights reserved.

You are receiving this email because you opted in or have expressed interest.

Our mailing address is:

APA Justice
P.O. Box 257
McLean, VA 22101-0257

[Add us to your address book](#)

Want to change how you receive these emails?

You can [update your preferences](#) or [unsubscribe from this list](#).

We do not share, sell, rent or trade any of your information with third parties unless you provide explicit consent. [Read our Privacy Policy here](#).