



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

December 21, 2015

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

Dear Congressman Lieu:

This responds to your letter to the Attorney General dated November 5, 2015, requesting an “independent investigation into whether race, ethnicity or national origin played a part” in two recent cases in which Asian Americans were indicted for allegedly engaging in criminal activities. Your letter refers specifically to Xiafen Chen, an employee of the National Oceanic and Atmospheric Administration, who was indicted last year in connection with allegations that she accessed restricted U.S. Government files and made materially false representations to federal investigators, and to Dr. Xiaoxing Xi, who was indicted last year in connection with a wire fraud scheme. An identical response is being transmitted to the other Members who co-signed your letter.

As your letter notes, neither Ms. Chen nor Dr. Xi have been tried for their alleged criminal activities. On March 10, 2015, the United States Attorney’s Office for the Southern District of Ohio, in consultation with, and without objection from, Ms. Chen’s counsel, exercised its discretion to dismiss the indictment without prejudice. Similarly, on September 11, 2015, the United States Attorney’s Office for the Eastern District of Pennsylvania, also in consultation with, and without objection from, Dr. Xi’s counsel, exercised its discretion to dismiss the indictment of Dr. Xi without prejudice in order to pursue additional information that came to the government’s attention.

We appreciate your concerns about these matters and we are in complete agreement with the sentiments expressed in your letter that race, ethnicity, and national origin should play no part in charging decisions by a United States Attorney’s Office (USAO). As explained in our letter of July 27, 2015, Department of Justice lawyers make charging decisions based on the law and facts presented in particular cases in light of the *Principles of Federal Prosecution* set forth in United States Attorneys’ Manual 9-27.000. See http://www.justice.gov/usao/eousa/foia_reading_room/usam/title9/27mcrm.htm#9-27.001.

We have received assurances from the respective USAOs and the FBI that the race, ethnicity, and national origin of the individuals played no role in the cases of Ms. Chen and Dr. Xi, and we are aware of no other information that would indicate that race, ethnicity, and national origin was a consideration in either case. We can assure you, however, that if we become aware

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of credible allegations that impermissible considerations of race, ethnicity, and national orientation played a role in these cases or any other case brought by the Department, we will take appropriate action.

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,

A handwritten signature in blue ink, appearing to read "P. Kadzik". The signature is stylized and written in a cursive-like font.

Peter J. Kadzik
Assistant Attorney General